

## TREATY ON THE EURASIAN ECONOMIC UNION

The Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, hereinafter referred to as the Parties,

**based on** the Declaration on the Eurasian Economic Integration of 18 November 2011,

**guided by** the principle of States sovereign equality, the necessity of unconditional compliance with the principle of prevalence of constitutional rights and liberties of an individual and a citizen,

**desiring** to enhance the solidarity and deepen the cooperation between their nations while respecting their history, culture and traditions,

**expressing** the confidence that further development of the Eurasian economic integration corresponds to the national interests of the Parties,

**motivated** by the desire to strengthen the economies of the member States of the Eurasian Economic Union and to ensure their harmonious development and convergence, as well as to ensure sustainable growth in business activity, balanced trade and fair competition,

**ensuring** economic progress by means of joint activities intended to solve faced by member States of the Eurasian Economic Union common problems on sustainable economic development, comprehensive modernization and strengthening the competitiveness of national economies within the framework of the global economy,

**confirming** the efforts for further strengthening of mutually beneficial and economic cooperation with other countries and also with international integration associations and international organizations,

**taking into account** the norms, rules and principles of the World Trade Organization,

**reaffirming** their commitments to the purposes and principles of the Charter of the United Nations Organization, and other generally accepted principles and norms of

international law,

have agreed as follows.

FIRST PART  
ESTABLISHMENT OF THE EURASIAN ECONOMIC UNION  
SECTION I  
GENERAL PROVISIONS

Article 1

Establishment of the Eurasian Economic Union.

Legal Personality

1. Under the present Treaty Parties shall establish the Eurasian Economic Union (hereinafter - the Union, the EAEU) and ensure free movement of goods, services, capital and labor as well as coordinated, agreed or common policy in the economic sectors defined in the present Treaty and in the international agreements within the EAEU.

2. The EAEU shall be an international organization of regional economic integration that holds the international legal personality.

Article 2

Definitions

For purposes of the present Treaty the following terms shall be used and understood as follows:

“harmonization of legislation” - approximation of legislation of the member States aimed at the establishment of a similar (comparable) legal regulatory framework in particular areas;

“member States” – states that are members of the EAEU and the Parties of the present Treaty;

“officials” - citizens of the member States appointed at the positions of the Directors of the Commission Departments, and deputy Directors of the Commission Departments, as well as Head of the Secretariat of the Court of the EAEU, and deputy

Head of the Secretariat of the Court of the EAEU and advisers of the judges of the Court of the EAEU;

“single economic space” - area consisting of the territories of the member States that provides for similar (comparable) and uniform mechanisms for economic regulation based on market principles and application of harmonized or unified legal norms, and common infrastructure;

“common policy” - policy implemented by the member States in particular areas provided under the present Treaty, assuming application by member States of uniform legal regulation, also on the basis of decisions of the bodies of the EAEU within their authorities;

“international agreements within the EAEU” - international agreements concluded between the member States on the issues related to the functioning and development of the EAEU;

“agreements of the EAEU with a third party” - international agreements concluded with third States, their integration associations and international organizations;

“common (single) market” - a set of economic relations within the EAEU that provides free movement of goods, services, capital and labor;

“order” - an act of the institutions of the EAEU, having organizational and administrative nature;

“decision” - an act of the institutions of the EAEU, having a legal nature;

“coordinated policy” - a policy, assuming the implementation of cooperation among member States on the basis of common approaches, approved within the bodies of the EAEU, aimed to achieve the objectives of the EAEU under the present Treaty;

“agreed policy” – a policy implemented by member States in various fields, assuming harmonization of legal regulation, also on the basis of the decisions of the EAEU, to the extent necessary to achieve the objectives of the EAEU under the present Treaty;

“employees” - nationals of the member States of the EAEU, working in the bodies of the EAEU on the basis of concluded labor agreements (contracts) and who at the same time work as non-officials;

“Customs union” - a form of trade and economic integration of the member States that provides for a unified customs territory free from customs duties (other duties, taxes and charges having equivalent effect), non-tariff measures, special protective antidumping and countervailing measures, but with common customs tariff and common assessment methods regulating foreign trade with third countries;

“third party”- a state that is non-member of the Union, an international organization or international integration association;

“unification of legislation” - approximation of legislation of the member States aimed at establishing of the identical mechanisms of legal regulation in particular areas defined under the present Treaty.

Other terms used in the present Treaty shall have the definition specified in the relevant Sections and Annexes to the present Treaty.

## SECTION II

### BASIC PRINCIPLES, OBJECTIVES, COMPETENCE AND LAW OF THE EAEU

#### Article 3

#### Basic Principles of the EAEU

The EAEU shall operate within the competence granted to it by the member States in accordance with the present Treaty, based on the following principles:

respect the commonly recognized principles of the international law, including the principles of sovereign equality of the member States and their territorial integrity;

respect the differences of political structures of the member States;

provide the mutually beneficial cooperation, equality and the national interests of the Parties;

ensure the principles of market economy and fair competition;

functioning of the Customs union without exceptions and limitations after the transitional periods.

Member States shall create favorable conditions for fulfillment of the functions of the EAEU and shall refrain from measures that could prevent the achievement of the objectives of the EAEU.

#### Article 4

##### Main Objectives of the EAEU

The main objectives of the EAEU shall include:

to create conditions for stable economic development of the member States in order to improve the living standards of their people;

the desire to create a common market for goods, services, capital and labor within the EAEU;

comprehensive modernization, cooperation and competitiveness of national economies within the global economy.

#### Article 5

##### Competence

1. The EAEU shall perform the scope of functions within the limits established under the present Treaty and international agreements within the EAEU.

2. Member States shall carry out coordinated and agreed policy within the limits established under the present Treaty and international agreements within the EAEU.

3. In other spheres of the economy the member States shall make an effort to implement a coordinated or agreed policy in accordance with the basic principles and objectives of the EAEU.

With this purpose by decision of the Supreme Eurasian Economic Council the subsidiary bodies (boards of the heads of state bodies of the Parties, working groups, special commissions) could be established in the corresponding areas and (or) the instructions for coordination of the interaction between Parties in the corresponding areas could be given by the Eurasian Economic Commission.

## Article 6

### The Law of the EAEU

1. The law of the EAEU shall include:

the present Treaty;

international agreements within the EAEU;

international agreements between the EAEU and the third party;

decisions and resolutions of the Supreme Eurasian Economic Council, Eurasian Intergovernmental Council as well as Eurasian Economic Commission that were accepted according to their authorities provided under the present Treaty as well as international agreements within the EAEU.

Resolutions of the Supreme Eurasian Economic Council and the Eurasian Intergovernmental Council shall be performed by member States in accordance with their national legislation.

2. International agreements of the EAEU with a third party shall not contradict to the basic objectives, principles and rules of functioning of the EAEU.

3. In case of conflict between international agreements within the EAEU and the present Treaty, the present Treaty shall have a priority.

Resolutions and orders of the EAEU shall not be inconsistent with the present Treaty and international agreements within the EAEU.

4. In case of conflict between the decisions of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council and the Eurasian Economic Commission:

decisions of the Supreme Eurasian Economic Council take precedence over the decisions of the Eurasian Intergovernmental Council and the Eurasian Economic Commission;

decisions of the Eurasian Intergovernmental Council take precedence over the decisions of the Eurasian Economic Commission.

## Article 7

## International Activity of the EAEU

1. The EAEU shall have the right to exercise within its competence international activity aimed at achievement of objectives of the EAEU. Within such activity, the EAEU shall have the right to engage in international cooperation with states, international organizations and international integration associations and independently or together with the member States conclude agreements on matters corresponding to its competence.

The procedure of international cooperation of the EAEU shall be established by the decision of the Supreme Eurasian Economic Council. The issues concerning conclusion of agreements of the EAEU with a third party shall be determined by the international treaty within the EAEU.

2. Negotiations on the drafts of international agreements of the EAEU with a third party, as well as their signing shall be performed according to the decision of the Supreme Eurasian Economic Council after implementation of the relevant internal procedures of the member States.

The decision on the expression of consent of the EAEU to be bound by an international Treaty between the EAEU and a third party, termination, suspension or withdrawal of an international Treaty shall be adopted by the Supreme Eurasian Economic Council after implementation of the relevant internal procedures of the member States.

### SECTION III

#### BODIES OF THE EAEU

##### Article 8

##### Bodies of the EAEU

1. Bodies of the EAEU shall include:

Supreme Eurasian Economic Council (hereinafter - the Supreme Council);

Eurasian Intergovernmental Council (hereinafter - the Intergovernmental Council);

Eurasian Economic Commission (hereinafter - the Commission, the EEC);



Court of the Eurasian Economic Union (hereinafter - the Court of the EAEU).

2. Bodies of the EAEU shall act within the authorities that are given to them under the present Treaty and international agreements within the EAEU.

3. Bodies of the EAEU shall act on the basis of principles specified in Article 3 of the present Treaty.

4. Presidency at the Supreme Council, the Intergovernmental Council and the Council of the Commission shall be performed on a rotation basis in the Russian alphabetical order by one member State of the EAEU within one calendar year without right for prolongation.

5. Conditions of residence for the bodies of the EAEU on the territory of the member States shall be determined by separate international agreements between the EAEU and the states of residence.

## Article 9

### Appointments Within the Structural Subdivisions of the Permanent Bodies of the EAEU

1. The right to take an appointment in the structural subdivisions of the permanent bodies of the EAEU shall belong to nationals of the member States with relevant education and experience.

2. Officials of the Commission department cannot be citizens of one state. The selection of candidates for these positions shall be performed by the competition commission of the EEC with respect to the principle of equal representation of the Parties. Candidates of the competition for these positions shall be presented by the member of the Council of the Commission from the relevant Party.

3. Selection of candidates for positions at the Commission departments shall be performed by the Commission on a competitive basis, taking into account the Parties' equity in the financing of the Commission.

4. Composition of competition commission on selection of candidates for positions referred to in paragraph 2 of the present article shall include all members of the Council of the Commission, except for the Chairman of the Council of the Commission.

Competition committee of the EEC shall take its decisions in the form of recommendations by a majority vote and submit them to the Chairman of the Collegium of the Commission for approval. If the Chairman of the Collegium of the Commission takes a decision in regard to a particular candidate that conflicts with the recommendation of the competition commission, the issue shall be submitted to the Council of the Commission for a final decision.

Regulations concerning the competition commission of the EEC (including the rules of the competition), its composition, as well as qualification requirements for candidates for positions of directors and deputy directors of departments of the Commission shall be approved by the Council of the Commission.

5. Procedure for the selection of candidates and appointment to positions in the Apparatus of the Court of the EAEU shall be established in accordance with the documents governing the activity of the Court of the EAEU.

## Article 10

### Supreme Council

1. Supreme Council shall be the supreme body of the EAEU
2. The members of the Supreme Council shall be the Heads of the member States.

## Article 11

### Procedure of Work of the Supreme Council

1. Meetings of the Supreme Council shall be held at least once a year.

In order to solve urgent issues of the EAEU the extraordinary meetings of the Supreme Council shall be held on the initiative of any member State or the Chairman of the Supreme Council.

2. Meetings of the Supreme Council shall be held under the guidance of the Chairman of the Supreme Council.

Chairman of the Supreme Council shall:

held meetings of the Supreme Council;

organize the work of the Supreme Council;

performs general management in preparation of the issues that shall be submitted to the Supreme Council for consideration.

In the case of early termination of authorities of the Chairman of the Supreme Council a new member of the Supreme Council of the presiding member State shall exercise the authority of the Chairman of the Supreme Council for the remaining period.

3. Chairman of the Supreme Council can invite members of the Council of Commission, the Chairman of the Collegium of Commission and other persons to participate at the meetings of the Supreme Council.

List of participants and format of meetings shall be determined by the Chairman of the Supreme Council in consultation with the members of the Supreme Council.

The agenda of the meetings of the Supreme Council shall be formed by the Commission on the basis of proposals from member States.

The issue on the presence of accredited media representatives at the meetings of the Supreme Council shall be agreed by the Chairman of the Supreme Council.

4. Procedure for organization of the meetings of the Supreme Council shall be approved by the Supreme Council.

5. Organizational, informational and logistical preparation and conduction of the meetings of the Supreme Council shall be provided by the Commission with assistance of the host member State. Financial support of the meetings of the Supreme Council shall be provided from the budget of the EAEU.

## Article 12

### Authorities of the Supreme Council

1. The Supreme Council shall consider fundamental issues of activity of the EAEU, define the strategy, direction and prospects of integration and take decisions aimed at achieving the objectives of the EAEU.

2. The Supreme Council shall have the following responsibilities:

1) determine the strategy, direction and prospects for the formation and development of the EAEU and take decisions aimed at achieving the objectives of the EAEU;

2) approve the membership of the Collegium of Commission, allocate responsibilities among members of the Collegium of Commission and terminate their powers;

3) appoint the Chairman of the Collegium of Commission and, if necessary, take a decision on early termination of his powers;

4) upon presentation of member States appoint the judges of the Court of the EAEU;

5) approve the rules on procedures of the Commission;

6) approve the budget of the EAEU, regulation on the budget of the EAEU and the report on implementation of budget of the EAEU;

7) determine the size (scale) of the equity assessments of the Parties to the budget of the EAEU;

8) upon request of any member State of the EAEU reconsider decisions adopted by the Intergovernmental Council and the Commission subject to the provisions of paragraph 7 of Article 16;

9) on the initiative of the Intergovernmental Council or the Commission consider the issues on which consensus was not achieved;

10) request the opinion of the Court of the EAEU;

11) approve the procedure for checking accuracy and completeness of information about income, assets and obligations of the judges of the Court of the EAEU, officials and staff of the Court of the EAEU and their family members;

12) determine the order of admission of new members of the EAEU and termination of the membership in the EAEU;

- 13) take decisions on granting observer or candidate status on accession to the EAEU;
- 14) approve the procedure on implementation of international activity of the EAEU;
- 15) take decisions on negotiations on behalf of the EAEU with third parties, including decisions on conclusion of international agreements and granting the right to negotiate as well as on expression of consent of the EAEU to be bound by international agreement with third party, temporary application, termination or suspension of international agreement;
- 16) approve the overall number of staff of the EAEU, the characteristics of officials representation from the nationals of member States in the bodies of the EAEU, provided by the member States on a competitive basis;
- 17) approve procedure of payment for the work of members of the Collegium of the Commission, judges of the Court of the EAEU, officials and employees of the EAEU;
- 18) approve the rules on the external audit (control) within the bodies of the EAEU;
- 19) consider the results of the external audit (control) within the bodies of the EAEU;
- 20) approve the symbols of the EAEU;
- 21) give orders to the Intergovernmental Council and the Commission;
- 22) decide on establishment of subsidiary bodies in the relevant areas;
- 23) exercise other powers provided under the present Treaty and international agreements within the EAEU.

## Article 13

### Decisions and Orders of the Supreme Council

1. The Supreme Council shall take decisions and instructions.
2. Decisions and instructions of the Supreme Council shall be taken by consensus.

Decisions of the Supreme Council, related to the termination of membership of a member State in the EAEU, shall be taken by “consensus minus the vote of the member State that has notified its intention to terminate its membership in the EAEU”.

#### Article 14

#### Intergovernmental Council

Intergovernmental Council shall be the body of the EAEU that consists of the Heads of Governments of the member States.

#### Article 15

#### Procedure of Work of the Intergovernmental Council

1. Meetings of the Intergovernmental Council shall be held if necessary but at least two times a year.

In order to solve urgent issues of the EAEU extraordinary meeting of the Intergovernmental Council shall be imposed on the initiative of any member State or the Chairman of the Intergovernmental Council;

2. Meetings of the Intergovernmental Council shall be held under the guidance of the Chairman of the Intergovernmental Council.

Chairman of the Intergovernmental Council shall:

held meetings of the Intergovernmental Council;

organize the work of the Intergovernmental Council;

perform general management in preparation of the issues that shall be submitted to the Intergovernmental Council for consideration.

In the event of early termination of powers of the Chairman of the Intergovernmental Council a new member of the Intergovernmental Council of the presiding member State shall exercise the authority of the Chairman of the Intergovernmental Council for the remaining period.

3. Members of the Council of Commission, the Chairman of Collegium of the Commission and other persons shall participate at the meetings of the Intergovernmental Council by the invitation from the Chairman of the Intergovernmental Council.

List of participants and format of meetings shall be determined by the Chairman of the Intergovernmental Council in consultation with the members of the Intergovernmental Council.

The agenda of the meetings of the Intergovernmental Council shall be formed by the Commission on the basis of proposals from member States.

The presence of accredited media representatives at the meetings of the Intergovernmental Council shall be agreed by the Chairman of the Intergovernmental Council.

4. Procedure for organization of the meetings of the Intergovernmental Council shall be approved by the Intergovernmental Council.

5. Organizational, informational and logistical preparation and conduction of the meetings of the Intergovernmental Council shall be provided by the Commission with the assistance of the host member State. Financial support of the meetings of the Intergovernmental Council shall be provided from the budget of the EAEU.

## Article 16

### Authorities of the Intergovernmental Council

Intergovernmental Council shall perform the following functions:

1) ensure the implementation and control of the implementation of the present Treaty, international agreements within the EAEU and the decisions of the Supreme Council;

2) upon proposal of the Council of the Commission consider issues on which consensus is not achieved in reaching a decision of the Council of the Commission;

3) give instructions to the Commission;

4) propose to the Supreme Council candidates to the members of the Council and Collegium of the Commission;

5) approve drafts of the budget of the EAEU, regulations on the budget of the EAEU and reports on performance of the budget of the EAEU;

6) approve Rules on audit of financial and economic activities of the bodies of the EAEU, standards and methodology of audit of financial and economic activities of the bodies of the EAEU, take decisions on audit of financial and economic activities of the bodies of the EAEU and determines the terms of their conduction;

7) upon proposal of any member State of the EAEU consider issues on reversal or amendment of the approved decision of the Commission or, if not agreed, take them for consideration of the Supreme Council;

8) approve decision on suspension of implementation of decisions of the Council or Collegium of the Commission;

9) approve the procedure for checking accuracy and completeness of information about income, assets and obligations of the members of the Collegium of the EAEU, officials and staff of the Commission and their family members;

10) exercise other powers provided under the present Treaty and international agreements within the EAEU.

## Article 17

### Decisions and Orders of the Intergovernmental Council

1. The Intergovernmental Council shall takes decisions and orders.

2. Decisions and orders of the Intergovernmental Council shall be taken by consensus.

## Article 18

### Commission

1. The Commission shall be an institutional body of the EAEU. The Commission shall consist of the Council and Collegium.

2. Commission shall take decisions, orders and recommendations.



Decisions, orders and recommendations of the Council of the Commission shall be made in terms of consensus;

Decisions, orders and recommendations of the Collegium of the Commission shall be taken by the qualified majority or by consensus.

The Supreme Council shall define a list of sensitive issues on which the Collegium of Commission shall take decisions by consensus.

The qualified majority shall consist of two thirds of the total number of members of the Collegium of Commission.

3. Status, objectives, composition, functions, powers and procedures of the Commission shall be determined according to Annex No. 1 to the present Treaty.

4. Residence of the Commission shall be the city of Moscow, Russian Federation.

#### Article 19

#### The Court of the EAEU

1. The Court of the EAEU shall be an institutional judicial body of the EAEU.

2. Status, structure, competence, procedure of functioning and establishment of the Court of the EAEU shall be determined by the Statute of Court of the EAEU according to Annex No. 2 to the present Treaty.

3. Residence of the Court of the EAEU shall be the city of Minsk, Belarus.

#### SECTION IV

#### EAEU BUDGET

#### Article 20

#### EAEU Budget

1. Financing of the activity of the EAEU bodies shall be provided from the EAEU budget, that shall be formed in the manner determined under the Regulation on the EAEU Budget.

The EAEU budget for the next fiscal year shall be formed in Russian rubles by means of member States contributions. Size (scale) of member States contribution to the budget of the EAEU shall be established by the Supreme Council.

EAEU budget must be balanced in income and expenditure. The fiscal year shall begin on the 1<sup>st</sup> of January and ends on the 31<sup>st</sup> of December.

2. EAEU budget and Regulation on a Budget of the Eurasian Economic Union shall be approved by the Supreme Council.

Amendments to the EAEU budget and in the Regulation on a Budget of the Eurasian Economic Union shall be made by the Supreme Council.

## Article 21

### Audit of Financial and Economic Activity of the EAEU bodies

To carry out control over the execution of the EAEU budget an audit of financial and economic activity of the EAEU shall be conducted at least once in 2 years.

At the initiative of any member State an audit on specific issues of financial and economic activity of EAEU bodies might be carried out. Audits of financial and economic activity of the EAEU bodies shall be carried out by the group of auditors which consists of representatives of the state financial control authorities of the member States.

The results of conducted audits of financial and economic activity of the EAEU bodies shall be submitted in the prescribed manner for the consideration of the Intergovernmental Council.

## Article 22

### External Audit (control)

The external audit (control) shall be carried out in order to determine the efficiency of formation, management and disposal of the funds of the EAEU budget, the efficiency of the use of property and other assets of the EAEU. External audit (control) shall be carried out by the group of inspectors that formed from the representatives of the supreme bodies

of state financial control of the member States. Standards and methodology of the external audit (control) jointly shall be determined by the supreme bodies of state financial control of the member States.

The results of conducted external audit (control) in the EAEU bodies shall be submitted in the prescribed manner for consideration to the Supreme Council.

SECOND PART  
CUSTOMS UNION  
SECTION V  
INFORMATION AND STATISTICS

Article 23

Information Exchange Within the EAEU

1. Measures aimed at ensuring information cooperation using the information and communication technologies and cross-border space of trust within the EAEU shall be developed and implemented in order to ensure informational support of the integration processes in all areas affecting the functioning of the EAEU,

2. Exchange of information during the performance of common processes within the EAEU is carried out by use of an integrated information system of the EAEU, supporting the integration of geographically distributed state information resources and information systems of the authorized bodies, as well as information resources and information systems of the Committee.

3. To ensure effective integration of state information resources and information systems the member States shall carry a coordinated policy in the field of information and information technology.

4. While using the software and hardware and information technologies the member States shall ensure the protection of intellectual property used or produced during the process of interaction.

5. Fundamental principles of information exchange and coordination of its implementation within the EAEU as well as the procedure of formation and development of an integrated information system are determined according to the Annex 3.

## Article 24

### Official Statistical Information of the EAEU

1. In order to provide effective functioning and development of the EAEU the official statistical information of the EAEU shall be formed.

2. Formation of official statistical information provided of the EAEU shall be carried out in accordance with the following principles:

- 1) professional independence;
- 2) scientific validity and comparability;
- 3) completeness and accuracy;
- 4) the relevance and timeliness;
- 5) open and available for everyone;
- 6) cost effectiveness;
- 7) statistical confidentiality.

3. Formation and distribution of official statistical information of the EAEU shall be performed in accordance with the procedure specified in the Annex 4.

## SECTION VI

### FUNCTIONING OF THE CUSTOMS UNION

## Article 25

### Principles of Functioning of the Customs Union

1. Within the framework of the Customs Union of member States:
  - 1) internal market of goods shall operate;

- 2) Common External Tariff of the Eurasian Economic Union and other common measures regulating foreign trade in goods with third parties shall be applied;
- 3) common regime for trade in goods with third parties shall operate;
- 4) common customs regulation shall be conducted;
- 5) free movement of goods without customs declarations and state control (transport, sanitary, veterinary and sanitary, phytosanitary quarantine, is applied between territories of the member States, except for the cases, provided in this Treaty.

2. For the purposes of this Treaty, the following definitions are used:

“import customs duty” – compulsory payment, imposed by customs bodies of the member States in terms of imports to the customs territory of the EAEU;

“Common Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union” - commodity nomenclature of foreign economic activity based on Harmonized Commodity Description and Coding System of the World Customs Organization and Common Commodity Nomenclature of Foreign Economic Activity of the Commonwealth of Independent States;

“Common External Tariff of the Eurasian Economic Union (CET)” – a set of customs duty rates applied for goods being imported (imported) to the customs territory of the EAEU from third countries, classified in accordance with the Common Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union;

“tariff preferences” – import customs duty exemption or lower import customs duty rates in respect of goods, originating from countries, which form a free trade zone with the EAEU, or lower import customs duty rates in respect of goods originating from developing and least-developed countries-beneficiaries of the common system of tariff preferences of the EAEU

## Article 26

### Enrollment and Distribution of Import Custom Duties

(Other Duties, Taxes and Charges Having Equivalent Power)

Paid (recovered) import custom duties shall be enrolled and distributed among the budgets of the member States.

Enrollment and distribution of amounts of import customs duties and their transition to the budgets revenue of the member States shall comply with the procedure specified in the Annex 5.

## Article 27

### Establishment and Functioning of Free (Special) Economic Zones and Free Warehouses

In order to facilitate social and economic development of the member States, attract investments, establish and develop industries, based on new technologies, develop transport infrastructure, tourism and health resort areas and other aims within the territories of member States free (special) economic zones (SEZs) and free warehouses shall be established and functioned.

Conditions of establishment and functioning of free (special) economic zones and free warehouses shall be stipulated by international agreements within the framework of the EAEU.

## Article 28

### Internal Market

1. The EAEU shall take measures to ensure the functioning of the internal market in accordance with the provisions of this Treaty.

2. Internal market covers economic space in which under the provisions of this Treaty shall be provided a free movement of goods, persons, services and capital.

3. Within the functioning of the internal market in mutual trade of goods the member State shall not apply customs duties (other duties, taxes and charges having equivalent power), non-tariff measures, special protective, antidumping and countervailing measures, except otherwise provided in this Treaty.

## Article 29

### Exceptions From the Functioning Procedure of

## Internal Market of Goods

1. Member States during the mutual trade of goods may apply restrictions (subject to the fact that these measures do not serve as unjustifiable discrimination or covered restriction on trade), if such restrictions are necessary for:

- 1) protection of human life and health;
- 2) protection of public morals and public order;
- 3) environmental protection;
- 4) the protection of animal and plant species and cultural values;
- 5) implementation of international obligations;
- 6) the defense and security of the member State.

2. Due to the reasons set out in paragraph 1 of this Article, at the internal market could be imposed sanitary, veterinary and sanitary and phytosanitary quarantine measures in the manner determined under the Section XI of this Treaty

3. Due to the reasons set out in paragraph 1 of this Article, the turnover of certain categories of goods can be limited.

Procedure of moving or handling of such goods at the customs territory of the EAEU is determined in accordance with this Treaty and the international treaties within the EAEU.

## SECTION VII

### REGULATION OF DRUGS AND MEDICAL PRODUCTS CIRCULATION

#### Article 30

##### Formation of a Common Market of Drugs

1. Member States within the framework of the EAEU shall establish a common market of drugs which are consistent to standards of appropriate pharmaceutical practice, based on the following principles:

- 1) harmonization and unification of the legal requirements of member States in the field of drugs circulation;

2) ensuring the unity of the mandatory requirements for the quality, effectiveness and safety of drugs which are circulated at the territory of the EAEU;

3) adoption of common rules in the field of drugs circulation;

4) development and application of the identical or comparable methods of research and monitoring in assessment of the quality, effectiveness and safety of drugs;

5) harmonization of member States legislation in the field of control (supervision) in the field of drugs circulation;

6) implementation of licensing and enforcement functions in the field of drugs circulation through the relevant competent authorities of the member States.

2. Functioning of the common market of drugs within the framework of the EAEU shall be realized in accordance with international agreement within the framework of the EAEU based on provisions of Article 100 of this Treaty.

## Article 31

### Establishment of Common Market of Medical Products (Healthcare Products and Medical Devices)

1. Member States within the framework of the EAEU shall establish the common market of medical products (healthcare products and medical devices) based on the following principles:

1) harmonization of the legal requirements of the member States in the field of medical products (healthcare products and medical devices) circulation;

2) ensuring the unity of the mandatory requirements for the effectiveness and safety of medical products (healthcare products and medical devices) in circulation at the territory of the EAEU;

3) adoption of common rules in the field of medical products (healthcare products and medical devices) circulation;

4) determination of common approaches for the establishment of system on provision of safety of medical products (healthcare products and medical devices);



5) harmonization of legislation of member States in the field of control (supervision) in the field of medical products (healthcare products and medical devices) circulation;

2. Functioning of the common market of the medical products (healthcare products and medical devices) within the framework of the EAEU shall be realized in accordance with an international agreement within the framework of the EAEU based on provisions of Article 100 of this Treaty.

## SECTION VIII CUSTOMS REGULATION

### Article 32 Customs Regulation in the EAEU

Within the EAEU common customs regulations are conducted in accordance with the Customs Code of the Eurasian Economic Union and regulatory customs international treaties and acts constituting the right of the EAEU, as well as in accordance with the provisions of this Treaty.

## SECTION IX FOREIGN TRADE POLICY

### 1. General Provisions on Foreign Trade Policy

#### Article 33 Objectives and Principles of Foreign Trade Policy of the EAEU

1. The foreign trade policy of the EAEU is aimed at facilitation of sustainable economic development of the member States, diversification of the economy, innovative development, increase in volumes and improvement of structure of trade and investment, acceleration of integration processes, as well as further development of the EAEU as efficient and competitive organization within the global economy.

2. The basic principles of foreign trade policy of the EAEU are as follows:

application of measures and mechanisms for making foreign trade policy of the EAEU that are not more burdensome for participants of foreign trade activity of the member States than necessary to ensure the effective achievement of the objectives of the EAEU;

transparency in the development, adoption and application of measures and mechanisms for making foreign trade policy of the EAEU;

feasibility and objectivity of application of measures and mechanisms for making foreign trade policy of the EAEU;

protection of rights and legitimate interests of participants of foreign trade activity of the member States, as well as the rights and legitimate interests of manufacturers and consumers of goods and services;

observance of rights of foreign trade activity participants.

3. Foreign trade policy is implemented by conclusion of international treaties with third parties, unilaterally by the EAEU or jointly with the member States, in the spheres, where EAEU's bodies take decisions, which are mandatory for the member States; participation in international organizations or autonomous application of measures and mechanisms of foreign trade policy.

The EAEU is responsible for observance of obligations under international treaties concluded with the EAEU and shall exercise its rights under these agreements.

#### Article 34

#### Most Favored Nation Regime

The Most Favored Nation regime in the meaning of the General Agreement on Tariffs and Trade (GATT 1994) shall be applied for foreign trade in goods in cases and under conditions, when application of the most favored nation regime is stipulated by international treaties of the EAEU with third countries, and international agreements of the member States with third countries.

#### Article 35

## Free Trade Regime

Free trade regime in the meaning of the GATT 1994 is established in trade with third country based on international agreement of the EAEU with the third country taking into account provisions of Article 102 of this Treaty.

International treaty of the EAEU with third country that establishes free trade regime may include other provisions, related to foreign trade activity.

### Article 36

#### Tariff Preferences on Goods Originating from Developing and (or) Least Developed Countries

1. In order to facilitate economic development of developing and least developed countries, the EAEU may provide tariff preferences for goods originating from developing and/or least developed countries-beneficiaries of the common system of tariff preferences of the EAEU in accordance with this Treaty.

2. In respect of preferential goods originating from developing countries-beneficiaries of the common system of tariff preferences of the EAEU imported into the customs territory of the EAEU, import customs duties at the level of 75 percent of import customs duties of the Common External Tariff of the Eurasian Economic Union, shall be applied.

3. In respect of preferential goods originating from least developed countries-beneficiaries of the common system of tariff preferences of the EAEU imported into the customs territory of the EAEU, zero import customs duty rates of the Common External Tariff of the Eurasian Economic Union shall be applied.

### Article 37

#### Rules for Determination of the Origin of Goods

1. On the customs territory of the EAEU the common rules for the determination of the origin of goods imported into the customs territory of the EAEU shall be applied.

2. For the purpose of application of customs and tariff regulation (except for the purposes of tariff preferences), the application of non-tariff regulation and protection of the internal market, the establishment of requirements for labeling of origin of goods, implementation of government (municipal) procurement, recording statistics of foreign trade the rules for determination of the origin of goods imported into the customs territory of the EAEU ( non-preferential rules for determination of the origin of goods) shall be applied.

3. For the purposes of tariff preferences in respect of goods imported into the customs territory of the EAEU from developing or least developed countries the rules for determination of the origin of goods from developing and least developed countries shall be applied and established by the Commission.

4. For the purposes of tariff preferences in respect of goods imported into the customs territory of the EAEU from the States that have trade and economic relations with the EAEU and use the free trade regime the rules for determination of the origin of goods established under the relevant international treaty of the EAEU with a third party providing the application of the free trade regime shall be applied.

5. If in the international treaty of the EAEU with a third party, providing for the application of the free trade regime the rules for determining the origin of goods are not specified or they are not adopted at the time of entry into force of the treaty, until the moment of the appropriate rules for determining of the origin of goods would be adopted in regard to imported goods into the customs territory of the EAEU of originating from that country the rules for determining of the origin of goods stipulated in paragraph 2 of this Article shall be applied.

6. If there are repeated violations in the area of determination (confirmation) of the origin of goods by the third party, the Commission may take a decision to conduct monitoring the correctness of the (confirmation) of origin of goods imported from a particular country by the customs authorities of the member States. In case of systematic violations by a third party in the determination (confirmation) of the origin of goods, the Commission may take a decision to suspend the adoption of the documents confirming the origin of goods by the customs authorities of the member States. The provisions of this

paragraph shall not limit the powers of the member States regarding control of origin of the imported goods and the adoption of measures for its results.

## Article 38

### Foreign Trade in Services

Member States shall coordinate trade in services with third parties.

Implementation of coordination does not mean supranational competence of the EAEU in this field.

## Article 39

### Elimination of Restrictive Measures in Trade with Third Countries

The Commission shall provide assistance in access to markets of third parties, monitor restrictive measures of third party in respect of the member States and jointly with the member States shall conduct consultations with the relevant third party in case of application of any measure by third party in respect of the EAEU or trade dispute between the EAEU and the third party in regard to the member States it holds the consultation to the respective third party.

## Article 40

### Retaliatory Measures With Regard to Third Party

1. In case, if the possibility of application of retaliatory measures provided by international treaty of the EAEU with third party and (or) member States with third parties, the decision on introduction of retaliatory measures on the customs territory of the EAEU, including the increase of import customs duty rates, introduction of quantitative restrictions, temporary suspension of preferences or adoption of other measures within the competence of the Commission, affecting results of foreign trade with the relevant State, shall be taken by the Commission.

2. In cases provided in the international treaties of the member States with third parties that entered into force before 1 January 2015, the member States may unilaterally apply higher import customs duty rates in comparison with the Common External Tariff of the Eurasian Economic Union, as retaliatory measures, and unilaterally suspend granting of tariff preferences provided that administration mechanisms of such measures do not violate provisions of this Treaty.

## Article 41

### Measures for Exports Development

The EAEU in accordance with international agreements, norms and rules of the World Trade Organization may apply joint measures to develop the exports of member States goods to the markets of the third parties.

Joint measures shall include, in particular, insurance and export credits, international leasing, promoting the concept of “goods of the Eurasian Economic Union” and the introduction of a common labeling of goods of the EAEU, organization of fairs and expositions, advertising and branding activities abroad.

## 2. Customs and Tariff Regulation and Non-tariff Regulation

## Article 42

### Common External Tariff of the Eurasian Economic Union

1. The Common Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union and the Common External Tariff, which are approved by the Commission, are applied on the common territory of the EAEU and are the instruments of trade policy.

2. The main objectives of application of the Common External Tariff of the Eurasian Economic Union are as follows:

1) to provide conditions for effective integration of the EAEU into the world economy;

2) to rationalize the structure of the imports of goods to the customs territory of the EAEU;

3) to maintain a rational proportion of exports and imports of goods on the customs territory of the EAEU;

4) to create conditions for progressive changes in the structure of manufacturing and consumption of goods in the EAEU;

5) support of the sectors of the economy of the EAEU.

3. The following types of import customs duties shall be applied at the Common External Tariff of the Eurasian Economic Union:

1) ad valorem, established as a percentage of the customs value of customable goods;

2) specific, established depending on physical characteristics of customable goods in kind (quantity, weight, volume or other characteristics);

3) combined, combining both types specified in subparagraphs 1 and 2 of this paragraph.

4. Import customs duty rates of the Common External Tariff of the Eurasian Economic Union are unified and are not subject to change depending on persons, transferring goods through the customs border of the customs union, except for the cases provided by Articles 35, 36 and 43 of this Treaty.

5. For the purpose of expeditious regulation of imports of goods into the customs territory of the EAEU, seasonal customs duty rates, which are valid no more than 6 months a year, may, if necessary, be established instead of import customs duty rates of the Common External Tariff of the Eurasian Economic Union.

6. The State acceded to the EAEU is eligible to apply import customs duty rates that are different from the rates of the Common External Tariff of the Eurasian Economic Union, in accordance with the list of goods and rates, which are approved by the Commission based on international agreement on the accession of that State to the EAEU.

The State acceded to the EAEU must ensure the use of goods towards which the lower import customs duty rates in comparison with the Common Customs Tariff of the Eurasian Economic Union are applied, only within its territory and adopt measures in order to prevent exports of such goods to other member States without additional payment of import customs duties equal to the difference between the sums of the customs import duties calculated at the rates of the Common External Tariff of the Eurasian Economic Union and the sums of import customs duties paid in imports of the goods.

#### Article 43

##### Tariff Exemptions

1. Tariff exemptions in the form of import customs duty exemption or a lower customs duty rate may be applied for goods being imported (imported) into the customs territory of the EAEU.
2. Tariff exemptions may not be individually applied and shall be applied regardless the country of origin.
3. Tariff exemptions shall be granted in accordance with Annex 6 to this Treaty.

#### Article 44

##### Tariff Rate Quotas

1. In respect of certain agricultural products originating in third countries and imported into the customs territory of the EAEU it is allowed to establish the tariff quotas, if the like goods are produced (extracted, cultivated) on the customs territory of the EAEU.
2. With regard to goods referred to in paragraph 1 of this Article imported into the customs territory of the EAEU within the established volume of tariff rate quota the relevant import duties according to the Common Customs Tariff of the Eurasian Economic Union shall be applied.
3. Introduction of tariff rate quotas for certain types of agricultural products originating in third countries and imported into the customs territory of the EAEU as well



as the distribution of the volumes of tariff quotas shall be carried out in accordance with the procedure provided in Annex 6 to this Treaty.

## Article 45

### Competence of the Commission on Customs and Tariff Regulation Issues

1. The Commission shall:

- maintain the common Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union and the Common External Tariff of the Eurasian Economic Union;

- establish import customs duty rates, including seasonal;

- establish cases and conditions for granting tariff exemptions;

- determine the procedure for application of tariff exemptions;

- determine conditions and the procedure of application of the common system of tariff preferences of the EAEU, including approval of:

- the list of developing countries-beneficiaries of the common system of tariff preferences of the EAEU;

- the list of least-developed countries-beneficiaries of the common system of tariff preferences of the EAEU;

- the list of goods originating from developing or least developed countries, towards which tariff preferences shall be granted at the importation into the customs territory of the EAEU;

- establish tariff rate quotas, allocate the volume of tariff rate quota between member States, determine the method and procedure for allocation of volume of tariff rate quota among participants of foreign trade activity, and if necessary allocate volumes of tariff rate quota among third countries or adopt an act under which the member States determine the method and procedure for allocation of tariff rate quotas among participants of foreign trade activities, and if necessary, allocate volume of tariff rate quota among third countries.

2. The list of sensitive goods, towards which the decision on changes to import customs duty rates is taken by the Council of the Commission, shall be approved by the Supreme Council.

#### Article 46

##### Non-tariff Measures

1. In trade with third countries the EAEU shall apply the following common non-tariff measures:

- 1) the prohibition of import and (or) export of goods;
- 2) quantitative restrictions on the import and (or) export of goods;
- 3) the exclusive right to export and (or) import of goods;
- 4) automatic licensing (monitoring) of export and (or) import of goods;
- 5) authorization procedure for import and (or) export of goods.

2. Non-tariff measures are to be introduced and applied on the principles of transparency and non-discrimination in the manner prescribed in the Annex no.7.

#### Article 47

##### Imposing of Non-tariff Regulation on the Unilateral Basis

Member States in trade with third countries may unilaterally introduce and apply non-tariff measures in the manner prescribed in the Annex 7.

3. Measures for protection of the domestic market

#### Article 48

##### General Provisions on Imposition of Measures for Protection of the Internal Market

1. In order to protect the economic interests of producers of goods of the EAEU the measures aimed to protect the internal market of goods originating in third countries and imported into the customs territory of the EAEU could be imposed in the form of

safeguard, antidumping and countervailing measures, as well as other measures in cases specified in Article 50 of this Treaty.

2. Decision on the application of safeguard, antidumping or countervailing measures, modification or cancellation of safeguard, antidumping or countervailing measures as well as non-application of a certain measures in accordance with this section and Annex 8 to this Treaty shall be taken by the Commission.

3. Safeguard, antidumping and countervailing measures shall be applied in the order and on the terms specified in Annex 8 to this Treaty.

4. Application of safeguard, antidumping or countervailing measures on import of products shall be preceded by an investigation carried out in accordance with Annex no.8 to this Treaty by the authorities identified by the Commission as responsible for such investigations (hereinafter – the investigating body).

5. Crediting and distribution of special, antidumping and countervailing duties are carried out in accordance with Annex 8 to this Treaty.

#### Article 49

##### Principles of Application of Safeguard, Antidumping and Countervailing Measures

1. A safeguard measure may be applied to the product, if as a result of investigation carried out by the investigating body it was determined that this product is imported into the customs territory of the EAEU in such increased quantities (in absolute terms or relative to the total volume of production in member States of like or directly competitive product) and under such conditions that it causes serious injury to the sector of economy of member States or threatens to cause such injury.

2. Antidumping measure may be applied to the product which is subject to the dumped imports, if as a result of investigation carried out by the investigating body it was determined that imports of such product into the customs territory of the EAEU causes material injury to the sector of economy of member States, threatens to cause such injury or significantly delays the establishment of a certain sector of economy of member States.

3. Countervailing measure may be applied to the imported product during the production, exportation or transportation of which a specific subsidy of the exporting third country was used, if in the result of investigation carried out by the investigating body was found that import of goods into the customs territory of the EAEU causes material injury to the sector of economy of member States, threatens to cause such injury or significantly delays the establishment of a certain sector of economy of the member States.

4. For the purposes of the application of measures for the protection of the internal market under the concept “sector of economy of member States” shall be understood all producers of the like product (for the purposes of antidumping and countervailing investigations) or like or directly competitive product (for the purposes of safeguard investigations) in member States, or those whose share in the total production of like product or like/directly competitive product in member States constitutes a significant proportion, but not less than 25 percent.

## Article 50

### Other Measures of Protection of the Internal Market

The right to apply measures of protection of the internal market on a bilateral basis, different from safeguard, antidumping and countervailing measures, including those realized in relation to the import of agricultural goods, may be provided by the international treaty of the EAEU with a third party on the establishment of a free trade regime in order to eliminate the negative impact of imports from these third party on the manufacturers of member States could be prescribed

The decision to apply such measures shall be taken by the Commission.

## SECTION X

### TECHNICAL REGULATION

## Article 51

### General Principles of Technical Regulation

1. Technical regulation within the EAEU shall be implemented in accordance with the following principles:

1) establishment of mandatory requirements to products or services and product related requirements to design processes (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, marketing and utilization;

2) establishment of common mandatory requirements in technical regulations of the EAEU or national mandatory requirements in the legislation of the member States in respect to the products included in the common list of products for which established mandatory requirements within the EAEU are established (hereinafter - the common list);

3) application and enforcement of technical regulations of the EAEU at the territories of the member States without exceptions;

4) compliance of technical regulations within the EAEU to the level of economic development of member States and the level of scientific and technological development;

5) independence of accreditation bodies of the member States, the certification bodies of the member States and the supervisory(control) authorities of the member States from manufacturers, sellers and purchasers and consumers;

6) unity of the rules and methods of research (tests) and measurements during the mandatory conformity assessment procedures;

7) unity of application of technical regulations of the EAEU regardless of the types and (or) characteristics of the transactions;

8) inadmissibility of restriction of competition in conducting conformity assessment procedures;

9) implementation of state control (supervision) over observance of technical regulations of the EAEU on the basis of the harmonization of legislation of the member States;

10) voluntary application of standards;

11) development and implementation of intergovernmental standards;

12) harmonization of the intergovernmental standards with international and regional standards;

13) unity of the rules and procedures of mandatory conformity assessment procedures;

14) to ensure harmonization of legislation of member States with regard to establishing liability for violation of the mandatory requirements for products, mandatory conformity assessment procedures and rules;

15) coherent policies in the area of traceability within the EAEU;

16) preventing the formation of exceeding barriers on the business activities;

17) establishment of the transitional period provisions aimed at phased transition to the new requirements and documents.

2. Provisions of this section do not apply to the establishment and application of sanitary, veterinary and sanitary and phytosanitary quarantine measures.

3. Policies, regulations and procedures of technical regulation within the EAEU shall be established in accordance with Annex 9.

4. Coherent policies in the area of traceability within the EAEU shall be established in accordance with Annex 10.

## Article 52

### Technical Regulations of the EAEU and Standards

1. Technical regulations of the EAEU shall be used for the purpose of protecting life and (or) human health, property, the environment, protecting life and (or) health of animals and plants, prevention of actions misleading consumers as well as to ensure energy efficiency and cost-effective use of resources within the EAEU.

Adoption of technical regulations of the EAEU for other purposes is not allowed.

Procedure for development and adoption of technical regulations of the EAEU as well as the procedure for introduction of amendments and their cancellation are adopted by the Commission.

The technical regulations of the EAEU or national mandatory requirements apply only to the products included in common list approved by the Commission.

Procedure for the formation and maintenance of the common list shall be approved by the Commission.

Member States do not allow imposing the mandatory requirements in their legislation for products not included in the common list.

2. Technical Regulations of the EAEU are directly applicable at the territory of the EAEU.

The procedure for entering into force of the technical regulations of the EAEU and transitional provisions are to be determined under the technical regulations of the EAEU and (or) an act of the Commission.

3. To meet the requirements of technical regulations and conformity assessment to the requirements of technical regulations of the EAEU on a voluntary basis international, regional (intergovernmental) standards, and in their absence (before the adoption of the regional (intergovernmental) standards) - the national (state) standards of the member States can be applied.

## Article 53

### Circulation of Products and Technical Regulations of the EAEU

1. Products manufactured and put into the circulation on the territory of the EAEU shall be safe.

Rules and procedures for ensuring the safety and circulation of products, for which requirements are not established under the technical regulations of the EAEU, shall be determined by the international treaty within the EAEU.

2. Products that are subject to the enforced technical regulation of the EAEU (technical regulations of the EAEU) can be put into the circulation at the territory of the EAEU, provided that it has passed the necessary conformity assessment procedures established under the technical regulation of the EAEU (technical regulations of the EAEU).

Member States shall ensure circulation of products conforming to the requirements of the technical regulation of the EAEU (technical regulations of the EAEU) on its territory without application of additional with regard to the technical regulation of the EAEU (technical regulations of the EAEU) requirements to such products and without additional conformity assessment procedures.

The provisions of the second paragraph of this paragraph shall not be applied with respect to the sanitary, veterinary and sanitary as well as phytosanitary quarantine measures.

3. From the date of entry into force of the technical regulations of the EAEU at the territories of the member States the relevant mandatory requirements for products or services and related requirements for product design process (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, marketing and utilization established under the legislation of the member States or the Commission's acts are to be applied only in part determined by the transitional provisions and from the date of termination of the transitional provisions, determined under the technical regulation of the EAEU and (or) under the Commission's act shall not be applied for the putting of the products into circulation, conformity assessment of the objects of the technical regulation, state control (supervision) over observance of technical regulations of the EAEU.

The provisions of the first subparagraph of this paragraph shall not be applied to the sanitary, veterinary and sanitary as well as phytosanitary quarantine measures.

Mandatory requirements for products or services and related requirements for product design processes (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, marketing and utilization established under the acts of the Commission prior to the entry into force of the technical regulation of the EAEU shall be included into the technical regulations of the EAEU.

4. State control (supervision) over observance of technical regulations of the EAEU shall be carried out in accordance with the legislation of the member States.



Principles and approaches to the harmonization of legislation of member States in the sphere of state control (supervision) over observance of technical regulations of the EAEU shall be defined under the international treaty within the EAEU.

5. Responsibility for non-compliance with the technical regulations of the EAEU, as well as for violation of procedures for assessment of conformity of products with the technical regulations of the EAEU are established in accordance with the legislation of the member States.

#### Article 54

#### Accreditation

1. Accreditation within the EAEU shall be implemented in accordance with the following principles:

1) harmonization of rules and approaches in the field of accreditation with international standards;

2) provision of voluntary accreditation, transparency and accessibility of information on procedures, rules and results of accreditation;

3) ensuring objectivity, impartiality and competence of the accreditation bodies of the member States;

4) ensuring that applicants for accreditation faced equal conditions in respect of accreditation and ensuring of the confidentiality of information obtained during the accreditation;

5) inadmissibility of combination of accreditation functions with functions of state control (supervision) by the same authority of the member State, except for carrying out monitoring the activities of accredited conformity assessment bodies of the member States (including certification bodies, testing laboratories (centers));

6) inadmissibility of combination by one authority of the member State of the accreditation and conformity assessment functions.

2. Accreditation of conformity assessment bodies of the member States shall be carried out by the accreditation bodies of member States authorized in accordance with the laws of the member States on the implementation of these activities.

3. Accreditation bodies of one member State shall not compete with the accreditation bodies of the other member States.

To avoid competition between accreditation bodies of the member States, the conformity assessment body of a member State shall for accreditation purposes apply to the accreditation body of the member State, on which territory it was registered as a legal entity.

If the accreditation body of one member State applies for accreditation purposes to the conformity assessment body registered as a legal entity at the territory of another member State, this accreditation body shall inform the accreditation body of the member State at whose territory the conformity assessment body is registered. In this case it is allowed to carry out accreditation by the accreditation bodies of the member States, if the accreditation body of the member State, at whose territory this conformity assessment body is registered, does not exercise accreditation in the required area. In this case the accreditation body of the member State, at whose territory conformity assessment body is registered has the right to act as an observer.

4. Accreditation bodies of member States carry out mutual comparative evaluation in order to achieve equivalence of the procedures.

Recognition of the results of the accreditation of conformity assessment bodies of the member State shall be carried out according to Annex 11.

## Article 55

### Elimination of Technical Barriers in Mutual Trade with Third Countries

Procedures and conditions for the elimination of technical barriers in trade with third countries shall be defined under the international treaty within the EAEU.

SECTION XI  
SANITARY, VETERINARY AND SANITARY AND PHYTOSANITARY  
QUARANTINE MEASURES

Article 56

General Principles of the Application of Sanitary, Veterinary and Sanitary and  
Phytosanitary Quarantine Measures

1. Sanitary, veterinary and sanitary and phytosanitary quarantine measures shall be applied on the basis of principles having a scientific basis and only to the extent necessary to protect human, animal and plant life and health.

Sanitary, veterinary and sanitary and phytosanitary quarantine measures applied within the EAEU shall be based on international and regional standards, guidelines and (or) recommendations except for the cases when, based on appropriate scientific justification, sanitary, veterinary and sanitary and phytosanitary quarantine measures that ensure a higher level of sanitary, veterinary and sanitary and phytosanitary quarantine protection than measures based on relevant international and regional standards, guidelines and (or) recommendations are applied.

2. In order to ensure sanitary and epidemiological welfare of the population, as well as veterinary and sanitary, quarantine phytosanitary safety in the EAEU a coordinated policy in the sphere of application of sanitary, veterinary and sanitary and phytosanitary quarantine measures shall be conducted.

3. Coordinated policy is implemented through joint development, adoption and implementation of international agreement and acts of the Commission by the member States in the field of application of sanitary, veterinary and sanitary and phytosanitary quarantine measures.

4. Each member State has the right to develop and implement temporary sanitary-epidemiological, veterinary and sanitary and phytosanitary quarantine measures.

The Commission shall approve the procedure of interaction of the member States authorized bodies with the introduction of temporary sanitary, veterinary and sanitary and phytosanitary quarantine measures.

5. Coordinated approaches when conducting identification, registration and traceability of animals and products of animal origin shall be applied in accordance with the acts of the Commission.

6. Application of sanitary, veterinary and sanitary and phytosanitary quarantine measures and interaction of the member States authorized bodies in the field of sanitary, veterinary and sanitary and phytosanitary quarantine measures shall be implemented in accordance with Annex 12 to this Treaty.

## Article 57

### Application of Sanitary Measures

1. Sanitary measures shall be applied to persons, vehicles, as well as products (goods) subject to sanitary-epidemiological supervision (control), included into the common list of products (goods) subject to state sanitary-epidemiological supervision (control) in accordance with the acts of the Commission.

2. Common sanitary-epidemiological and hygienic requirements and procedures shall be established to products subject to state sanitary-epidemiological supervision (control).

Common sanitary and epidemiological and hygienic requirements to products (goods), in respect of which technical regulations of the EAEU are being developed, shall be included into the technical regulations of the EAEU in accordance with the acts of the Commission.

3. The Commission shall approve the procedure for the development, approval, amendment and implementation of the common sanitary-epidemiological and hygienic requirements and procedures.

4. In order to ensure sanitary-epidemiological welfare of the population, the authorized bodies of the member States in the field of the sanitary-epidemiological welfare

of the population shall implement state sanitary and epidemiological supervision (control) in accordance with the legislation of the member States and acts of the Commission.

Authorized bodies in the field of sanitary and epidemiological welfare of the population can implement state supervision (control) over compliance with requirements of technical regulations of the EAEU within the framework of state sanitary and epidemiological supervision (control) in accordance with the legislation of the member States.

## Article 58

### Application of Veterinary and Sanitary Measures

1. Veterinary and sanitary measures shall be applied to goods (including goods for personal use), imported into the custom territory of the EAEU and transported within the custom territory of the EAEU, included in the Common list of goods subject to veterinary control (supervision) approved by the Commission, as well as to objects subject to veterinary control (supervision).

2. Common veterinary (veterinary and sanitary) requirements approved by the Commission shall be applied to goods and objects subject to veterinary control (supervision).

3. In order to prevent importation and distribution of agents of infectious animal diseases, including those common to humans and animals, and goods not corresponding to a common veterinary (veterinary-sanitary) requirements veterinary control (supervision) over goods subject to veterinary control (supervision), including goods for personal use, as well as objects subject to the veterinary control (supervision) shall be implemented according to the acts of Commission.

Interaction of the member States in prevention, diagnosis, localization and liquidation of centers of particularly dangerous, quarantine and zoonotic animal diseases shall be carried out in the order established by the Commission.

4. Authorized bodies in the veterinary field shall implement veterinary control (supervision) at the transition of goods controlled by the veterinary control (supervision) across the customs border of the EAEU at checkpoints of the state border of the member

States or at other locations specified in national legislation of the member States that are fitted and equipped with means of veterinary control in accordance with the legislation of the member States.

5. Each batch of goods subject to veterinary control (supervision) shall be imported into the customs territory of the EAEU according to the Common veterinary (veterinary and sanitary) requirements approved by the Commission and in a presence of a permit issued by the authorized body of the member States in the veterinary field in whose territory these goods are imported and/or a veterinary certificate issued by the authorized body of the country of dispatch of these goods.

6. Goods subject to veterinary control (supervision) shall be transported from the territory of one member State into the territory of the other member State according to the Common veterinary (veterinary and sanitary) requirements. A veterinary certificate shall accompany these goods, unless otherwise determined by the Commission.

The member States mutually recognize veterinary certificates issued by authorized bodies in the veterinary field as per single forms approved by the Commission.

7. The basic principle of ensuring safety of goods subject to veterinary control (supervision) in their production, processing, transportation and/or storage in a third country, is an audit of foreign official supervision.

Authorized bodies in the veterinary field shall conduct audits of foreign official systems of supervision and inspections of objects subject to veterinary control (supervision) in accordance with the acts of the Commission.

8. The member States have the right to develop and implement temporary veterinary (veterinary and sanitary) requirements and measures in case of receiving official information from the relevant international organizations, the member States, as well as third countries on the deterioration of the epizootic situation in the territories of third countries or member States.

In case of presence of such information, but in the absence of adequate scientific evidence or if such evidence cannot be submitted when required, the member States may take immediate veterinary and sanitary measures.

## Article 59

### Quarantine Phytosanitary Measures

1. Quarantine phytosanitary measures shall be applied to the products included in the List of quarantineable products (quarantineable cargo, quarantineable substances, quarantineable goods) subject to quarantine phytosanitary control (supervision) at the customs border of the EAEU and in the customs territory of the EAEU (hereinafter - the List of quarantineable products), quarantine objects included in the Common list of quarantine objects of the EAEU, as well as quarantineable objects.

2. Quarantine phytosanitary control (supervision) in the customs territory of the EAEU and the customs border of the EAEU shall be carried out in respect of the products included in the List of quarantineable products, quarantine objects included in the Common list of quarantine objects of the EAEU, as well as quarantineable objects.

3. The List of quarantineable products, the Common list of quarantine objects of the EAEU and the Common quarantine phytosanitary requirements shall be approved by the Commission.

## SECTION XII

### CONSUMER RIGHTS PROTECTION

## Article 60

### Guarantees for the Consumer Rights Protection

1. Consumer rights protection is guaranteed under the legislation of the member State on the consumer rights protection as well as under this Treaty.

2. The citizens of member States as well as other persons living on the territory of other member States shall enjoy the same legal protection in the field of consumer protection as citizens live at the territories of the other member States, and shall have the right to apply to state and non-governmental organizations for the protection of consumer rights and other organizations as well as to the courts and carry out other procedural actions on the same conditions as the citizens of the other member States.

## Article 61

### Policy in the Area of Consumer Protection

1. Member States shall conduct a coordinated policy in the field of consumer protection aimed at formation of the equal conditions for citizens of member States to protect their interests from unfair activities of commercial entities.

2. Implementation of harmonized policies of consumer protection is provided in accordance with this Treaty and the legislation of the member States on the protection of consumer right on the basis of the principles specified in the Annex 13.

## PART III

### SINGLE ECONOMIC SPACE

#### SECTION XIII

### MACROECONOMIC POLICY

## Article 62

### Main Directions of the Coordinated Macroeconomic Policy

1. Within the EAEU a coordinated macroeconomic policy providing for the development and implementation of joint actions by the member States shall be carried out in order to achieve balanced economic development of the member States.

2. Coordination of the implementation by the member States of the coordinated macroeconomic policy shall be carried out by the Commission in accordance with the Annex 14 to this Treaty.

3. Main directions of the coordinated macroeconomic policy of the member States include:

1) ensuring sustainable economic development of the member States with the use of integration potential of the EAEU and competitive advantages of each member State;



2) creation of common principles of functioning of the economy of the member States and their effective interaction;

3) providing for the conditions for the increase of the internal stability of the economy of the member States, including macroeconomic stability, as well as resistance to external effects;

4) development of common principles and guidelines for social and economic development of the member States.

4. Implementation of the main directions of coordinated macroeconomic policy shall be carried out in accordance with the Annex 14 hereto.

### Article 63

#### Main Macroeconomic Indicators Determining Sustainability of Economic Development

Member States form the economic policy within the following quantitative parameters of macroeconomic indicators determining sustainability of economic development:

annual deficit of consolidated general governmental budget - does not exceed 3 percent of gross domestic product;

general governmental debt - does not exceed 50 percent of gross domestic product;

inflation rate (consumer price index) on annual basis (from December to December of the previous year, in percentage) - does not exceed by more than 5 percentage points the inflation rate in the member State where this index is the lowest.

## SECTION XIV

### MONETARY POLICY

#### Article 64

##### Purposes and Principles of Coordinated Monetary Policy

1. Member States for the purposes of deepening economic integration, development of cooperation in the monetary and financial field, ensuring free movement of goods, services and capital in the territories of the member States, enhancing the role of national currencies of the member States in foreign trade and investment transactions as well as providing mutual convertibility of these currencies, shall develop and carry out coordinated monetary policy based on the following principles:

1) gradual implementation of harmonization and convergence of approaches to the formation and conduction of the currency policy to the extent where it corresponds the current macroeconomic integration cooperation demand;

2) creation the necessary organizational and legal conditions at national and intergovernmental levels for the integration processes development in the monetary field, coordination and correlation of monetary policy;

3) prevention of actions in the monetary field that may adversely affect the integration processes development, and in case of its forced application - minimization of the consequences of such actions;

4) economic policy aimed at increasing confidence as regards national currencies of the member States both in the domestic market of each member State as well as in the international monetary markets.

2. For the purposes of the coordinated monetary policy the member States shall implement the measures in accordance with the Annex 15 to the Treaty.

3. Coordination of the exchange rate policy is carried out by a separate body that consists of the heads of national (central) banks of the member States and its operation procedures are determined by the international treaty within the EAEU.

4. Correlated approaches are used by the member States in respect of monetary relations regulation and adoption of liberalization measures shall be determined under an international agreement within the EAEU.

## SECTION XV

### TRADE IN SERVICES, ESTABLISHMENT, ACTIVITIES AND INVESTING

## Article 65

### Objectives and Purposes, Scope of Application

1. The objective of this Section is to ensure the freedom of trade in services, establishment, activities and investments within the EAEU in accordance with the conditions of this Section and the Annex 16 to this Treaty.

The legal basis of regulation of trade in services, establishment, activities and investments in the territories of the member States is determined in accordance with the Annex 16 to this Treaty.

2. Provisions of this Section shall be applied to measures of the member States affecting supply and consumption of services, establishment, activities and investments.

The provisions of this Section shall not apply:

to the state (municipal) procurement regulated by the Section XXII of this Treaty;

to the supply of services and activities carried out in the exercise of governmental authority.

3. Services covered by Sections XVI, XIX, XX and XXI of this Treaty shall be regulated by the provisions of this sections, respectively. The provisions of this section shall be applied to the extent not inconsistent with the specified sections.

4. Specificities of relations arising in relation to the trade of electric communication services shall be determined in accordance with the Procedure for Trade in Electric Communication services (Annex 1 to the Annex 16 hereto).

5. Specificities of the entry, departure, stay and employment of natural persons shall be regulated by Section XXVI of this Treaty to the extent not inconsistent with this Section.

6. Nothing in this Section shall be interpreted as:

1) a requirement to any member State to furnish any information, the disclosure of which it considers contrary to its essential security interests;

2) a prevention for any member States from taking any action it considers necessary for the protection of its the essential security interests through the adoption of legislation, including:

relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

relating to fissionable and fusionable materials or the materials from which they are derived;

taken in time of war or other emergency in international relations;

3) a prevention for any member States from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

7. Provisions of this Section shall not prevent the member States to adopt or enforce the measures:

1) necessary for the protection of the public morals or for maintaining the public order. Exceptions for the reasons of public order can only be applied in cases when there is a genuine and sufficiently serious threat for one of the fundamental interests of the society.

2) necessary for the protection of human, animal or plant life or health;

3) necessary for compliance with the legislation of the member States that are not contrary to the provisions of this section, including those related to:

the prevention of deceptive and fraudulent practices or to deal with the effects of a default on civil contracts;

the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

safety;

4) inconsistent with paragraphs 21 and 24 of the Annex 16 to this Treaty, provided that the difference in actual treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes from persons of another member States or of third States in respect of trade in services, establishment and activities and such measures should not be inconsistent with the provisions of international treaties of the member States;

5) inconsistent with paragraphs 27 and 29 of the Annex 16 to this Treaty, provided that the difference in treatment is the result of an agreement on taxation matters, including

on the avoidance of double taxation where the respective member States is a party to such an agreement.

8. Application of measures stipulated in paragraph 7 of this Article shall not result in arbitrary or unjustifiable discrimination between member States or a disguised restriction on trade in services, establishment, activities and investments.

9. If a member States retains restrictions or prohibitions on trade in services, establishment, activities and investments against a third State, nothing in this section shall be interpreted as obliging this member States to apply the provisions of this section to the persons of another member States if such person is owned or controlled by a person of the specified third State, and the application of the provisions of this section will lead to circumvention or violation of these prohibitions and restrictions.

10. Member States may not apply its obligations under this Section, on the person of another member States in respect of trade in services, establishment, activities and investments if it is proven that the entity of another member States does not exercise significant business operations in the territory of another member States, and that it is owned or controlled by a person of the first member State or by a person of a third State.

## Article 66

### Liberalization of Trade in Services, Establishment, Activities and Investments

1. Member States shall not introduce new discriminatory measures in respect of trade in services, establishment, and activities of persons of the other member State as compared to the treatment in force at the date of entry into force of this Treaty.

2. To ensure free trade in services, establishment, activities and investments, the member States carry out gradual liberalization of conditions for mutual trade in services, establishment, activities and investments.

3. Member States aspire to create and ensuring operation of a single services market stipulated by paragraph 38 - 43 of the Annex 16 to this Treaty, in the maximum number of services sectors.

## Article 67

### Principles of Liberalization of Trade in Services, Establishment, Activities and Investments

1. Liberalization of trade in services, establishment, activities and investments is carried out with consideration of the international principles and standards through the harmonization of the legislation of the member States and organization of mutual administrative cooperation between the competent authorities of the member States.

2. Within the process of liberalization of trade in services, establishment, activities and investments the member States are guided by the following principles:

1) optimization of domestic regulation - gradual simplification and (or) elimination of excessive domestic regulation, including approval requirements and procedures for service suppliers, service consumers, persons carrying out establishment or activities as and investors with consideration of the best international practice of regulation the specific services sectors, and in case of lack of such a practice - by selecting and applying the most advanced models used by the member States;

2) proportionality - a necessary and sufficient level of harmonization of legislation of the member States and the mutual administrative cooperation for the effective functioning of the services market , establishment, activities or investment;

3) mutual benefit - the liberalization of trade in services, establishment, activities and investments on the basis of fair distribution of benefits and obligations, taking into account the sensitivity of the services sectors and types of activities for each member State;

4) consistency – the adoption of any measures in respect of trade in services, establishment, activities and investments including the harmonization of legislation of the member States and administrative cooperation that are to be based on the following:

deterioration of conditions of mutual access in comparison with the conditions prevailing at the date of completion of this Treaty as well as with the conditions set forth in this Treaty in any sectors of services and activities is unacceptable;

gradual reduction of restrictions, exemptions, additional requirements and

conditions stipulated by individual national lists of restrictions, exemptions, additional requirements and conditions approved by the Supreme Council stipulated in subparagraph 4 of paragraph 2 and paragraphs 15-17, 23, 26, 28, 31, 33 and 35 of the Annex 16 to this Treaty;

5) the economic feasibility – conduction within the single services market, provided by paragraphs 38 - 43 of the Annex 16 to this Treaty, of liberalization of trade in services as a priority in relation to the services sectors that have the most significant impact on the cost price, competitiveness and (or) the volumes of produced and sold goods in the domestic market of the EAEU.

## Article 68

### Administrative Cooperation

1. The member States shall assist each other in ensuring effective cooperation between the competent authorities on matters regulated by this Section.

To ensure the effectiveness of cooperation including the exchange of information the competent authorities of the member States should conclude the agreements.

2. Administrative cooperation includes:

1) an operational information exchange between the competent authorities of the member States in respect of services sector as a whole, as well as in relation to individual market participants;

2) creation of a mechanism for preventing the violation by services suppliers of rights and interests of consumers, fair market participants as well as public (state) interests.

3. Competent authorities of a member State may request under the concluded agreements the competent authorities of other member States information within the competence of the latter and necessary for the effective implementation of the requirements of this section, including:

1) on the persons of these other member State carrying out establishment or providing services in the territory of the first member State, and in particular the

information on the evidences confirming that such persons are established in their territories and that according to the competent authorities these persons are engaged in business activities;

2) on the approvals issued by the competent authorities, and types of activities to be implemented under these approvals;

3) on administrative measures, penal sanctions or decisions on the recognition of insolvency (bankruptcy) of a person, that were taken by the authorities in respect to this person and that directly affect their competence or business reputation. The competent authorities of a member State shall provide the relevant information requested from the competent authorities of another member State, including the grounds for bringing to justice those who carried out establishment or supplied services in the territory of the first member State.

4. Administrative cooperation of the competent authorities of the member States (including the monitoring and supervision of the activities) aimed at:

1) creation of an effective system to protect the rights of services consumers of one member State with the supply of these services by services supplier of another member State;

2) fulfillment of tax obligations and other obligations by the services consumers and services suppliers;

3) preventing unfair business practices;

4) ensure the reliability of statistical data on the amounts of services supplied by the member States.

5. If the member State became aware of the actions of any of the services suppliers or persons carrying out establishment or activities, or investors who are capable of causing damage to the health or safety of humans, animals, plants or the environment in the territory of that member State or in the territories of other member States, the first member State shall as soon as possible inform all the member States and the Commission about it.

6. Commission promotes the development and participates in the process of operation of the information systems of the EAEU on matters regulated by this Section.

7. The member States may inform the Commission on cases of non-compliance of



the obligations under this Article by other member States.

## Article 69 Transparency

1. Each member State shall ensure openness and availability of its legislation on matters regulated by this Section.

For these purposes, all of the normative legal acts of the member State which affect or may affect the matters regulated by this Section shall be published in the sources of official information, and if possible also on the respective website in the Internet so that any person whose rights and (or) obligations might be affected by such normative legal acts had the opportunity for comment.

2. Normative legal acts of the member States specified in paragraph 1 of this Article shall be published within the period providing legal certainty and the reasonable expectations of persons whose rights and (or) obligations might be affected by these normative legal acts, but in any case prior to the date of their entry into force.

3. Member States shall ensure the publication of the preliminary draft of normative legal acts specified in paragraph 1 of this Article.

Member States shall place the draft normative legal act, information on the procedure of submission by persons of comments and proposals on those draft normative legal acts, as well as information on the time period for public comment of draft normative legal act in the Internet on the official websites of government agencies responsible for the development of the draft normative legal acts, or on specially created websites in order to provide all interested persons with the opportunity to submit their comments and proposals.

The drafts normative legal acts are to be published usually within 30 calendar days before the date of their adoption. Such prior publication is not required in exceptional cases that require a rapid response and in cases where prior publication of draft regulations may prevent their application or otherwise be contrary to the public interest.

Comments and (or) proposals received by the competent authorities of the member

States during the public consultations shall be taken into account while revising draft normative legal acts.

4. Publication of normative legal acts (their drafts) referred to in paragraph 1 of this Article shall be accompanied by an explanation of the purposes of their adoption and application.

5. The member States create a mechanism providing for responding to written or electronic requests of any person in respect of the normative legal acts in force and (or) normative legal acts planned for adoption referred to in paragraph 1 of this Article.

6. The member States shall provide for consideration of applications of persons of other member States on matters regulated by this Section, in accordance with its legislation in the manner prescribed for its persons.

## SECTION XVI

### REGULATION OF THE FINANCIAL MARKETS

#### Article 70

##### Purposes and Principles of the Regulation of Financial Markets

1. Member States within the EAEU shall carry out the coordinated regulation of financial markets in accordance with the following objectives and principles:

1) to deepen economic integration of member States in order to create within the EAEU a common financial market and to ensure non-discriminatory access to the financial markets of the member States;

2) to ensure a secure and effective protection of the rights and legitimate interests of financial services consumers;

3) to create the conditions for mutual recognition of licenses in the banking and insurance sectors as well as in the services sector within the securities market issued by authorized bodies of one member State in the territories of other member States;

4) to determine approaches in respect of risk management in the financial markets of the member States in accordance with international standards;

5) to determine the requirements for banking activities, insurance activities, and activities in the securities market (prudential requirements);

6) to determine the order of supervising of the financial market participants;

7) to ensure transparency of financial market participants.

2. In order to create the conditions within the financial market for free movement of capital the member States shall apply the following basic forms of cooperation, including:

1) exchange of information including the confidential one between the competent authorities of the member States on the matters related to regulation and development of banking activities, insurance activities and activities in the securities market, control and supervision in accordance with the international agreement within the EAEU;

2) conduction of the agreed actions concerning the discussion of current and potential issues in the financial markets and development of proposals for solution of those issues;

3) mutual consultations carried out by the competent authorities of the member States in respect of regulation of banking activities, insurance activities and activities in the securities market .

3. To achieve the objectives set out in paragraph 1 of this Article, the member States in accordance with an international agreement within the EAEU and subject to Annex 17 of this Treaty and Article 103 of this Treaty shall harmonize their legislation in respect of financial market.

## SECTION XVII

### TAXES AND TAXATION

#### Article 71

##### Principles of Member States Cooperation in the Field of Taxation

1. Goods imported from the territory of one member State into the territory of another member State shall be levied by indirect taxes.

2. Member States in mutual trade shall collect taxes, other charges and payments so that taxation in the member State in which territory the goods of other member States are sold is no less favorable than the taxation applied by this member State under the similar circumstances in respect of like goods, originating from its territory.”

3. Member States shall determine directions, as well as forms and procedure of harmonization of tax legislation that affect mutual trade in order to avoid violation of competition conditions and not to prevent free movement of goods, works and services at the national level or at the level of the EAEU, including:

- 1) harmonization (approximation) of excise rates on the most sensitive excisable goods;
- 2) further improvement of the system on collection of value added tax in mutual trade (including the use of information technologies).

## Article 72

### Principles of Indirect Taxes Collection in Member States

1. Collection of indirect taxes in mutual trade of goods shall be carried out by the principle of country of destination, provided for an application of zero rate of value added tax and (or) exemption from payment of excise taxes on export of goods, as well as levying of import of goods by indirect taxes.

Collection of indirect taxes and the mechanism of control over their payment on export and import of goods shall be carried out under the procedure, provided for in Annex 18 of this Treaty.

2. Collection of indirect taxes on performing work and services supply shall be carried out in a member State, which territory is recognized as a place of selling works, supply of services.

Collection of indirect taxes on performing works, services supply shall be carried out under the procedure, provided for in Annex 18 of this Treaty.

3. Exchange of information between tax authorities of member States, which is required to ensure the full payment of indirect taxes, shall be carried out in accordance

with separate international interagency agreement, which shall establish the procedure on exchange of information, form of application on import of goods and payment of indirect taxes, rules of filling and requirement for exchange format.

4. While importing goods to the territory of one member State from the territory of another member State indirect taxes shall be collected by tax authorities of the importing member State, unless otherwise provided by the legislation of this member State in relation to the goods subject to marking with excise stamps (accounting control marks, signs).

5. The rates of indirect taxes in mutual trade while importing goods to the territory of a member State shall not exceed the rates of indirect taxes levied on similar domestically produced goods that are being sold in the territory of this member State.

6. Indirect taxes should not be collected while importing to the territory of a member State:

1) goods, which in accordance with the legislation of this member State are not subject to taxation (exempted from taxation) when importing in its territory;

2) goods being imported into the territory of a member State by natural persons not for the purposes of business activity;

3) goods, import of which into the territory of one member State from the territory of another member State is carried out in connection with their transfer within one juridical person ( obligation of notification tax authorities on import (export) of such goods could be established in accordance with the legislation of a member State).

## Article 73

### Income Taxation of Natural Persons

If one member State in accordance with its legislation and provisions of international treaties is entitled to levy the income of a tax resident (person with a permanent place of residence) of another member State earned in connection with employment in the first member State, such income shall be levied in the first member State as of the first day of employment at the rates established for such incomes of natural

persons that are tax residents (persons with permanent place of residence) of this first member State.

The provisions of this Article shall apply to taxation of income related to employment earned by the citizens of member States.

## SECTION XVIII COMMON PRINCIPLES AND RULES OF COMPETITION

### Article 74

#### General Provisions

1. The subject of this Article is establishment of common principles and rules of competition, providing detection and restraint of anticompetitive practices in the territory of the member States and actions, adversely affecting competition on transboundary markets in the territory of two and more member States.

2. The provisions of this sector are applied to relationship, connected with implementation of competition (antimonopoly) policy in the territory of the member States, and to the relationship with participation of business entities (market participants) of the member States, which adversely affect or may affect competition on transboundary markets in the territory of two and more member States. Criteria of reference of the market to transboundary for the purposes of determining competence of the Commission are established by the decision of the Supreme council.

3. The member States are eligible to establish additional prohibitions in the legislation, and additional requirements and limitations regarding prohibitions, provided for in Article 75 and 76 of this Treaty.

4. The member States pursue the aligned competition (antimonopoly) policy regarding actions of business entities (market participants) of the third countries, if these actions may adversely affect the condition of competition on the goods markets of the member States.

5. Nothing in this Section should not be interpreted as preventing any member State from taking any measures it considers necessary for protection of the major interests of national defense or security of the State.

6. Provisions of this Section are applied to natural monopoly entities as provided for by this Treaty.

7. Implementation of provisions of this Article is performed pursuant to Annex 19 to this Treaty.

## Article 75

### Common Principles of Competition

1. Application by the member States of the provisions of their competition (antimonopoly) legislation to business entities (market entities) of the member States is carried out similarly and equally irrespective of legal form and place of registration of such business entities (market entities ) on equal terms.

2. The member States establish prohibitions in their legislation, including on the following:

1) agreements between public authorities, local governments, other authorities or organizations carrying out their function or between them and business entities (market entities) if such agreements lead to or may lead to prevention, restriction or elimination of competition, except for the cases provided by this Treaty and/or by other international agreements of the member States;

2) granting of the State or municipal preferences, except for the cases provided for in the legislation of the member States and with consideration of specificities as provided for by this Treaty and/or other international agreements of the member States.

3. The member States take effective measures for the prevention, identification and suppression of the actions (inaction) provided by subparagraph 1 of paragraph 2 of this Article.

4. The member States in accordance with their legislation ensure effective control over economic concentration to the extent necessary for the protection and development of competition in the territories of each member State.

5. Each member State provides existence of the national authority of the government whose competence includes implementation and (or) carrying out competition (antimonopoly) policy, which means, *inter alia*, granting to such authority powers to control observance over prohibition of anti-competitive actions and prohibition of unfair competition, control over economic concentration, and also powers on prevention, identification of violation of the competition (antimonopoly) legislation, take measures on termination of the mentioned violation and bringing to responsibility for such violation (hereinafter – the authorized body of the member State).

6. The member States establish in their legislation effective sanctions for conducting anticompetitive actions regarding business entities (market entities) and officials of authorized bodies, based on the principles of effectiveness, proportionality, security, inevitability and definiteness, and provide control of their application. The member States recognize that in case of application of penalties, the highest penalties have to be established for the violations constituting the greatest threat for competition (agreements limiting competition, abuse of the dominant position by business entities (market entities) of the member States), thus the preferable fines are estimated from the sum of revenues of the offender gained from sale of goods or from the sum of expenses of the offender on purchase of goods, in the market where the violation took place.

7. The member States pursuant to their legislation provide informational openness of competition (antimonopoly) policy pursued by them, including by publication of information on activity of the authorized bodies of the member States in mass media and the Internet.

8. Authorized bodies of the member States in accordance with the legislation of their State and this Treaty carry out cooperation by sending notices, requests for providing information, carrying out consultations, informing on the investigations (hearing of cases) affecting interests of the other member State, carrying out investigations (hearing of cases)



at the request of the authorized body of one of the member States and informing on its results.

## Article 76 Common Rules of Competition

1. Actions (inaction) of the business entities (market entities) with a dominant position resulted in prevention, restriction, elimination of the competition and (or) infringement of interests of other persons, including the following actions (inaction), are forbidden:

1) establishment, support of monopolistically high or monopolistically low price of a good;

2) withdrawal of a good from circulation, if such withdrawal resulted in increase of the price of goods ;

3) imposition on the counter-partner economically or technologically unreasonable terms of the agreement which are unprofitable for him or do not relate to subject of the agreement;

4) economically or technologically unreasonable reduction or termination of goods production if there is a demand for these goods or orders are placed for its deliveries with the possibility of its profitable production, and also if such reduction or such termination of goods production isn't directly provided for by this Treaty and/or other international agreements of the member States;

5) economically or technologically unreasonable refusal or avoidance of the conclusion of the agreement with certain buyers (customers) with the possibility of production or delivery of the corresponding goods with specificities provided for in this Treaty and/or other international agreements of the member States;

6) economically, technologically or otherwise unreasonable establishment of various prices (tariffs) for the same goods, creation of discriminatory conditions with specificities provided for in this Treaty and/or other international agreements of the member States;

7) creation of restrictions on access to the goods market or exit from the goods market for other business entities (market entities).

2. Unfair competition is not allowed, including:

1) dissemination of the false, inadequate or distorted information which can cause losses to a business entity (market entity) or can cause damage of its business reputation;

2) misleading concerning character, method and place of production, consumer properties, quality and quantity of goods or concerning its producers;

3) incorrect comparison by the business entities (market entities ) of the goods produced or sold by it with the goods produced or sold by other business entities (market participants).

3. Agreements are forbidden between business entities (market entities ) - competitors acting in one goods market which lead or can lead to:

1) establishment or maintenance of the prices (tariffs), discounts, extra charges (surcharges), margins;

2) increase, decrease or support of the prices at the auctions;

3) division of the goods market by the territorial principle, volume of sale or purchase of goods, the range of goods sold or structure of sellers or buyers (customers);

4) reduction or termination of goods production;

5) refusal of the conclusion of agreements with certain sellers or buyers (customers).

4. Vertical agreements are forbidden between business entities (market entities) (except for vertical agreements which are admissible according to the criteria of admissibility established by the Annex 19 to this Treaty), if:

1) such agreements lead or can lead to establishment of the price of resale of goods, except for the case when the seller establishes a ceiling price of resale of goods for the buyer;

2) such agreements stipulate the obligation of the buyer not to sell goods of the business entity (market entity), who is a competitor of the seller. Such prohibition does not concern agreement on organization by the buyer of sale of goods under the trademark or other means of individualization of the seller or the producer.

5. Other agreements are forbidden between the business entities (market entities) (except for vertical agreements which are admissible according to the criteria of admissibility established by the Annex 19 to this Treaty) if it is established that such agreements lead or can lead to competition restriction.

6. Natural persons, commercial organizations and non-commercial organizations are forbidden to carry out coordination of economic activity of business entities (market entities) if such coordination leads or can lead to the consequences, stated in paragraphs 3 and 4 of this Article, which cannot be admitted as admissible under the criteria of admissibility, established by Annex 19 to this Treaty. The member States are entitled to establish in their legislation prohibition of coordination of economic activity, if such coordination leads or may lead to the consequences stated also in paragraph 5 of this Article, which cannot be admitted as admissible under the criteria of admissibility, established by Annex 19 to this Treaty.

7. Prevention of violation by business entities (market entities ) of the member States, and also by natural persons and non-commercial organizations which do not carry out business activity, of common rules of competition established in this section if such violations affect or can adversely affect competition on transboundary markets in the territory of two and more member States, except for financial markets, is carried out by the Commission in the order provided by the Annex 19 to this Treaty.

## Article 77

### State Price Regulation

The order of introduction of the State price regulation, and also challenging the decisions of the member States on its introduction are determined by the Annex 19 to this Treaty.

## SECTION XIX

### NATURAL MONOPOLIES

## Article 78

### Spheres and Subjects of the Natural Monopolies

1. Member States regulate the activity of natural monopolies entities in accordance with the rules and regulations provided in Annex 20 to this Treaty.

2. Provisions of the present section shall be applied to the relations that involve such entities as monopolies, consumers, executive authorities and local governments of the member States in the areas of natural monopolies affecting trade between member States as well as those specified in Appendix 1 to Annex 20 to this Treaty.

3. Relations in specific spheres of natural monopolies are defined under this Section taking into account features specified in Sections XX and XXI of this Treaty.

4. The spheres of natural monopolies in the member States also include the spheres of natural monopolies specified in Appendix 2 of the Annex 20 of this Treaty.

Regarding spheres of natural monopolies, specified in Appendix 2 to Annex 20 to this Treaty, the requirements of the national legislation of the member States shall be applied.

5. List of the services of natural monopolies that are attributable to the spheres of natural monopolies shall be defined by the national legislation of the member States.

6. Member States aspire to harmonize the spheres of natural monopolies provided in Appendices 1 and 2 to the Annex 20 to this Treaty, by their reduction and by possible (potential) determination of the transition period in sections XX and XXI of this Treaty.

7. Expansion of natural monopolies' spheres in the member States is carried out:

in accordance with the national legislation of the member States if a member State intends to refer to the sphere of natural monopolies which is the sphere of natural monopolies in another member State and is provided in Appendix 1 or 2 to the Annex 20 to this Treaty .

in accordance with the decision of the Commission if a member State intends to refer to the sphere of natural monopolies another sphere of natural monopolies, that were not provided in Appendix 1 and 2 to the Annex 20 to this Treaty after the proper (due) request of such member State to the Commission.

8. This Section does not include the relationships regulated by effective international bilateral agreements between the member States. The newly concluded international bilateral agreements between member States shall not be in contradiction with the present Section.

9. Provisions of Section XVIII of this Treaty shall be applied to the entities of natural monopolies subject to the specifics provided in this Section.

## SECTION XX

### ENERGY

#### Article 79

##### Interaction of the Member States in the Energy Sector

1. For the purposes of the effective use of the potential of fuel and energy complexes of the member States as well as providing national economies with the main types of energy (electricity, gas, oil and petroleum products), member States shall develop a long-term mutually beneficial cooperation in the energy sector, conduct a coordinated energy policy, implement the gradual formation of common markets of energy resources in accordance with international treaties provided for in Articles 81, 83 and 84 of this Treaty, with a view to ensure energy security, based on the following basic principles:

- 1) ensuring the market pricing of energy resources;
- 2) ensuring the development of competition in the common market of energy resources;
- 3) lack of technical, administrative and other barriers to trade in energy resources, appropriate equipment, technology and related services;
- 4) provision of transport infrastructure development of common markets of energy resources;
- 5) ensuring non-discriminatory conditions for economic entities of member States in the common markets of energy resources;

6) creation of favorable conditions for attracting investments in the energy sector of the member States;

7) harmonization of national regulations and functioning rules of the technological and commercial infrastructure of common markets of the energy resources.

2. The relations of economic entities of member States operating in the sphere of electric power, gas, oil and petroleum products not covered by this section shall be implemented in accordance with the legislations of the member States.

3. Provisions of section XVIII of this Treaty with respect to economic entities of member States in the fields of electric power, gas, oil and petroleum products are applied subject to particularities provided by this section and Section XIX of this Treaty.

## Article 80

### Indicative (Estimated) Balances of Gas, Oil and Petroleum Products

1. For the purpose of effective use of the total interstate energy potential and optimization of energy supply, the competent authorities of the member States shall develop and coordinate:

indicative (estimated) gas balance of the EAEU;

indicative (estimated) oil balance of the EAEU;

indicative (estimated) petroleum products balances of the EAEU.

2. Development of the balances referred to in paragraph 1 of this Article shall be carried out with the participation of the Commission and in accordance with the methodology of developing indicative (estimated) balances of gas, oil and petroleum products, developed within the period provided in paragraph 1 of Article 104 of this Treaty and agreed by the competent authorities of the member States.

## Article 81

### Formation of a Common Energy Market of the EAEU

1. Member States shall carry out phased formation of a common energy market of the EAEU on the basis of parallel operation of electric power systems subject to the transitional provisions specified in paragraphs 2 and 3 of Article 104 of this Treaty.

2. Member States shall develop the concept and program of formation of a common energy market of the EAEU approved by the Supreme Council.

3. Member States conclude an international agreement within the EAEU on the formation of a common energy market based on the provisions of the approved concept and program of formation of a common energy market of the EAEU.

## Article 82

### Providing the Access to Services of Natural Monopolies in the Energy Sector

1. Within existing technical capabilities the member States shall ensure free access to services of entities of natural monopolies in the energy sector, provided the priority use of these services for the domestic demand in electric energy (power) of the member States in accordance with common principles and rules according to the Annex №21 to this Treaty.

2. Principles and rules of access to the services of natural monopolies in the electricity sector, including the basics of pricing and tariff policy set out in the Annex №21 to this Treaty shall be applied to the Republic of Belarus, Republic of Kazakhstan and the Russian Federation. In the case of accession of new members the indicated Annex shall be amended accordingly.

## Article 83

### Formation of a Common Gas Market of the EAEU and Access to Services of Natural Monopolies in the Field of Gas Transportation

1. Member States shall carry out the phased formation of a common market of gas of the EAEU in accordance with Annex №22 subject to the transitional provisions provided for in paragraphs 4 and 5 of Article 104 of this Treaty.

2. Member States shall develop the concept and program formation of a common gas market of the EAEU approved by the Supreme Council.

3. Member States conclude an international agreement within the EAEU on the formation of the common gas market, based on the provisions of the approved concept and program for the formation of a common market of gas in the EAEU.

4. Member States within the existing technical capabilities, free capacities of gas transmission systems taking into account the agreed indicative (estimated) gas balance of the EAEU and on the basis of civil contracts of the economic entities shall provide free access for the economic entities of other member States to gas transmission systems located in the territories of the member States, to transport natural gas on the basis of common principles, conditions and rules provided under the Annex №22 to this Treaty.

#### Article 84

#### Formation of Common Oil and Petroleum Products Market of the EAEU and Access to Services of Natural Monopolies in the Field of Oil and Petroleum Products Transportation

1. Member States shall carry out the phased formation of a common market of oil and petroleum products of the EAEU in accordance with Annex №23 subject to the transitional provisions provided for in paragraphs 4 and 5 of Article 104 of this Treaty.

2. Member States shall develop the concept and program formation of a common oil and petroleum products market of the EAEU approved by the Supreme Council.

3. Member States conclude an international agreement within the EAEU on the formation of the common oil and petroleum products market, based on the provisions of the approved concept and program for the formation of a common market of oil and petroleum products in the EAEU.

4. Member States within the existing technical possibilities in regard to the agreed indicative (estimated) oil balance of the EAEU as well as agreed indicative (estimated) petroleum products balance of the EAEU and on the basis of civil contracts of the economic entities shall provide free access for the economic entities of other member



States to transmission systems located in the territories member States on the basis of common principles, conditions and rules provided under the Annex №23 hereto.

## Article 85

### The Authority of the Commission in the Energy Sector

In the energy sector the Commission monitors the enforcement of this section.

## SECTION XXI

### TRANSPORT

## Article 86

### Coordinated (Correlated) Transport Policy

1. The EAEU carries out coordinated (correlated) transport policy aimed at ensuring economic integration, consistent and gradual creation of a single transport space on the principles of competition, openness, security, reliability, availability and environmental compatibility.

2. Objectives of coordinated (correlated) transport policy are:

- 1) creation of a common market for transport services;
- 2) adoption of correlated measures ensuring common benefits in the transport field and the implementation of best practices ;
- 3) integration of the transport systems of the member States into the global transport system;
- 4) efficient use of transit potential of the member States;
- 5) improvement of quality of transport services;
- 6) provision of transport security;
- 7) reduction of the harmful effects of transport on the environment and human health;
- 8) creation of a favorable investment climate.

3. The main priorities of the coordinated (correlated) transport policy are:
  - 1) forming a single transport space;
  - 2) creation and development of the Eurasian transport corridors;
  - 3) implementation and development of the transit potential within the EAEU;
  - 4) coordination of the development of transport infrastructure;
  - 5) creation of logistics centers and transport organizations providing the transportation process optimization;
  - 6) involvement and use of human resources capacity of the member States;
  - 7) development of science and innovation in the field of transport.
4. Coordinated (correlated) transport policy is formed by the member States.
5. The main directions and stages of coordinated (aligned) transport policy are determined by the Supreme Council.
6. Monitoring of the implementation by the member States of the coordinated (aligned) transport policy is conducted by the Commission.

## Article 87

### Scope of Application

1. Provisions of this Section shall apply to road, air, water and rail transport taking into account provisions of Sections XVIII and XIX of this Treaty and the peculiarities stipulated in Annex 24 to this Treaty.

2. The member States shall seek a gradual liberalization of transport services between the member States.

Procedures, conditions and stages of liberalization are determined by international treaties within the EAEU with peculiarities stipulated in Annex 24 to this Treaty.

3. Requirements for transport security (transport safety and transport operation security) are determined by the legislation of the member States and international agreements.

## SECTION XXII

# GOVERNMENT (MUNICIPAL) PROCUREMENT

## Article 88

### Objectives and Regulatory Principles in the Field of Government (Municipal) Procurement

1. The member States shall determine the following objectives and principles of regulation in the government (municipal) procurement (hereinafter - Procurement):

regulation of relations in the field of procurement by the legislation of the member States on procurement and international treaties of the member States;

ensuring optimal and efficient expenditure of funds used for procurement in the member States;

granting national treatment in procurement to member States;

inadmissibility to third countries in the field of procurement of a more favorable treatment than that accorded between the member States;

ensuring openness of information and transparency of procurement;

ensuring unhindered access of potential suppliers and suppliers of the member States to participate in the procurement conducted electronically through the mutual recognition of electronic signature, designed in accordance with the legislation of a member State, by another member State;

ensuring the availability of authorized regulatory and supervisory authorities of the member State in procurement (it is allowed that these functions shall be carried out by one body);

establishment of liability for violation of the legislation of the member States of the procurement;

development of competition and opposition of corruption and other abuses in procurement.

2. This Treaty shall not apply to the procurement, the details of which are in accordance with the legislation of a member State are referred to as the state secret (state secrets).

3. Procurement in the member States shall be conducted in accordance with Annex No 25.

4. This section shall not apply to procurement conducted by the national (central) banks of the member States, subject to the provisions of paragraphs second - fourth of this item.

The national banks (central) banks of the member States shall conduct procurement for administrative purposes, construction work and capital repair in accordance with their internal rules for procurement (hereinafter – rules for procurement). Regulations on procurement should not be contrary to the purposes and principles set out in this article, including provision of equal access to potential suppliers of the member States. In exceptional cases the decision of the supreme body of the national (central) bank may establish exceptions to these principles.

Rules for procurement should include requirements for procurement, including the procedure for the preparation and conduct of procurement procedures (including procurement methods) and the conditions for their application, the procedure for concluding agreements (contracts).

The rules for procurement and information on planned and implemented procurement by the national (central) banks of the member States shall be posted on the official websites of national (central) banks of the member States on the Internet in the manner determined by the rules for procurement.

## SECTION XXIII INTELLECTUAL PROPERTY

### Article 89 General Provisions

1. Member States shall perform cooperation in the sphere of protection and enforcement of intellectual property rights and provide protection and enforcement of

intellectual property rights in accordance with provisions of international law, legal acts of the EAEU and legislation of member States.

Cooperation shall be performed in order to:

- harmonize legislation of member States in the sphere of protection and enforcement of intellectual property rights;

- protect interests of right owners of intellectual property rights of member States.

2. Cooperation of member States shall be performed in accordance with the following directions:

1) support of scientific and innovative development;

2) improvement of mechanisms for commercialization and use of intellectual property objects;

3) creation of favorable conditions for copyright and related rights owners;

4) introduction of system of registration for trademarks and service marks of the Eurasian Economic Union and appellations of origin of goods of the Eurasian Economic Union;

5) enforcement of intellectual property rights also in Internet;

6) effective customs enforcement, including introduction of common customs registry of intellectual property rights objects;

7) application of coordination measures in order to prevent circulation of counterfeit goods.

3. In order to provide effective protection and enforcement of intellectual property rights member States shall participate in consultations organized by the Commission.

Upon results of the consultations, the member States shall develop proposals on problem issues defined within their cooperation.

## Article 90

### Legal Regime of Intellectual Property Objects

1. Persons of one member State at the territory of another member State shall be granted national treatment with regard to the protection of intellectual property.

Legislation of member State may provide for exception to national treatment in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent.

2. Member States may implement in their law more extensive protection and enforcement of intellectual property than is required in international legal acts applicable to member States and legal acts of the EAEU.

3. Member States shall perform its activity in the sphere of protection and enforcement of intellectual property rights in accordance with provisions of the following international treaties:

- The Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of December 20, 1996;
- The WIPO Performances and Phonograms Treaty of December 20, 1996;
- The WIPO Copyright Treaty of December 20, 1996;
- The Patent Law Treaty of June 1, 2000;
- The Patent Cooperation Treaty of June 19, 1970;
- The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms of October 29, 1971;
- The Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of June 27, 1989;
- The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations of October 26, 1961 (the Rome Convention);
- The Paris Convention for the Protection of Industrial Property of March 20, 1883 (hereinafter referred to as the Paris Convention);
- The Singapore Treaty on the Law of Trademarks of March 27, 2006.

Member States, which are not member States of the international treaties above, shall take an obligation to accede to these treaties.

4. Regulation of protection and enforcement of intellectual property rights, including legal regime with regard to specific objects of intellectual property shall be provided in the Annex No. 26 to the present Treaty.

## Article 91 Enforcement

1. Member States shall perform enforcement measures on effective protection of intellectual property rights.

2. Member States shall perform activity on enforcement with regard to objects of intellectual property rights, including those measures provided in the Customs Code of the Eurasian Economic Union and international treaties and acts of the EAEU on customs regulations.

3. Member States shall provide cooperation and interaction of competent authorities of member States in the sphere of enforcement of intellectual property with the purpose of coordination of activity on detection, prevention and restraint of infringements on intellectual property at the territories of member States.

## SECTION XXIV INDUSTRY

### Article 92 Industrial Policy and Cooperation

1. Member States independently shall develop, formulate and implement national industrial policies, as well as adopt national programs on industry development and other measures of industrial policy, and also determine methods, forms and directions of granting industrial subsidies which are not contrary to Article 93 of this Treaty.

Industrial policy within the framework of the EAEU shall be established by member States by the main directions of industrial cooperation, which approved by the

Intergovernmental Council and carried out by them with consultative assistance and coordination of the Commission.

2. Industrial policy within the framework of the EAEU shall be carried out by member States on the basis of the following principles:

- 1) equality and consideration of member States' national interests;
- 2) mutual benefit;
- 3) fair competition;
- 4) non-discrimination;
- 5) transparency.

3. The purposes of industrial policy implementation within the framework of the EAEU shall be an acceleration and increase of industrial development stability, increase of competitiveness of member States' industrial systems, implementation of effective cooperation, which shall be addressed to increase of innovation activity, elimination of barriers in industrial area as well as on the way of movement of member States' industrial products.

4. Member States to achieve the goals of industrial policy implementation within the framework of the EAEU can:

- 1) carry out mutual informing about plans on industry development;
- 2) carry out regular meetings (consultations) of the representatives of member States' competent authorities, which are responsible for the development and implementation of national industry policy, as well as at the Commission forum;
- 3) develop and implement joint programs on development of priority economic activities for industrial cooperation;
- 4) develop and coordinate the list of sensitive goods;
- 5) implement joint projects, as well as on development of infrastructure, which is necessary to increase the effectiveness of industrial cooperation and deepening of industrial cooperation of member States;
- 6) develop technological and informative resources for the goals of industrial cooperation;



7) carry out joint research and development works with the goals of promoting hi-tech production;

8) implement alternative measures, which are directed to the elimination of barriers and development of mutually beneficial cooperation.

5. If so required by the decision of the Intergovernmental Council the relevant procedures on implementation of measures which are provided in paragraph 4 of this Article shall be developed.

6. Member States shall develop Main Directions of Industrial Cooperation Within the Framework of the EAEU (hereinafter - Main directions), which are approved by the Intergovernmental Council and as well as include priority economic activity for industrial cooperation and sensitive goods.

The Commission shall monitor and analyze the results of implementation of Main directions on the annual basis, and if so required, in coordination with member States prepare the proposals on interpretations of Main directions.

7. In the process of development and implementation of policy in the trade, customs and tariff, competitive areas, and in the areas of government procurement, technical regulation, development of business activity, transport and infrastructure and in other areas the interests of member States on industrial development shall be accommodated.

8. In respect of sensitive goods member States before the adoption of measures of industrial policy shall carry out consultations for mutual consideration of positions.

Member States shall provide preliminary mutual informing about planned directions on implementation of national industrial policy under the approved list of sensitive goods.

Member States jointly with the Commission shall develop the procedure on carrying out the indicated consultations and (or) mutual informing which shall be approved by the Council of the Commission.

9. To implement industrial cooperation within the framework of the EAEU member States with consultative assistance and coordination of the Commission can develop and apply following instruments:

1) promotion of mutually beneficial industrial cooperation with the aim of creation of hi-tech, innovative and competitive production;

2) joint programs and projects with the participation of member States on mutually beneficial base;

3) joint technological platforms and industrial clusters;

4) other instruments, which assist for development of industrial cooperation.

10. To implement the provisions of this Article member States with a participation of the Commission can develop additional documents and mechanisms. .11. The Commission shall carry out the consultative assistance and coordination of member States activity on the main directions of industrial cooperation within the limits of authorities, which are provided by the Annex 27 to this Treaty.

For the purposes of this Article, the terms and definitions shall be used in accordance with the Annex 27 to this Treaty.

### Article 93

#### Industrial Subsidies

1. For the purpose of providing conditions for the sustainable and efficient development of member States economies, as well as conditions encouraging the development of mutual trade and fair competition between member States, within the territories of the member States common rules for granting subsidies with regard to the industrial goods, including during rendering or receiving services that are directly associated with the production, sale and consumption of the industrial goods, under Annex 28 of this Treaty shall be effective.

2. Commitments of member States arising from the provisions of this Article and Annex 28 to this Treaty shall not apply to the legal relations between member States and third countries.

3. For the purposes of this Article a subsidy shall mean:

a) financial contribution made by the subsidizing body of member State (or a body authorized by member State), in the result of which benefits are created (provided) and which is carried out by:

direct transfer of funds (e.g, in the form of irrevocable loans, loans) or acquisition of shares in the charter capital, or its increase, or an obligation to transfer such funds (e.g. loan guarantees);

full or partial waiver of the collection of payments that would have to flow into the revenue of the member State (for example, tax exemptions, debt relief). In this case exemption of exported industrial goods from duties and taxes borne by the like product when destined for domestic consumption or reduction of duties and taxes or refund of such duties or taxes in amounts not exceeding those which have been accrued, is not regarded as a subsidy;

provision of industrial goods or services (except industrial goods or services for the maintenance and development of common infrastructure);

purchase of industrial goods ;

b) any other form of income or price support which operates (directly or indirectly) to reduce import of industrial goods from territory of any member State or to increase the export of industrial goods to the territory of any member State in the result of which advantage is provided.

Types of subsidies are provided in Annex 28 to this Treaty.

4. Subsidizing body may entrust or prescribe to any other organization to carry out one or more functions related to the provision of subsidies. Actions of such organizations shall be deemed as actions of subsidizing body.

Legal acts signed by the Head of member State aimed at providing subsidies shall be deemed as actions of the subsidizing body.

5. Investigation to analyze the conformity of subsidies granted on the territory of a Member-state to the provisions of this Article and Annex 28 to this Treaty shall be conducted pursuant to the procedure provided by the Annex No 28 to this Treaty.

6. The Commission shall control the implementation of provisions of this Article and Annex 28 to this Treaty and shall have the following authorities:

1) monitoring and carrying out of comparative legal analysis of member States legislation for its compliance with the provisions of this Treaty in respect of granting

subsidies as well as preparation of annual reports on the compliance of member States with the provisions of this Article and Annex 28 to this Treaty;

2) assisting in organization of consultations of member States on the issues of harmonization and unification of the member States legislation in the sphere of provision of subsidies;

3) the adoption of decisions binding for the member States provided by Annex 28 to this Treaty, following the procedure on the voluntary approval of specific subsidies to be provided or provided, including :

making decisions on accessibility or non accessibility of specific subsidies in accordance with paragraph 6 of Annex 28 to this Treaty on the basis of criteria which are provided by international agreement within the framework of the EAEU provided for in paragraph 7 of Annex 28 to this Treaty;

conducting investigations on the facts of provision of specific subsidies and making decisions binding in relation to them, in cases specified by the international agreement within the framework of the EAEU provided for in paragraph 7 of Annex 28 to this Treaty;

resolution of disagreements on matters related to the implementation of the provisions of this Article and Annex 28 to this Agreement, and provision of explanations on their application;

4) requesting and receiving information on the granted subsidies in the manner and on the terms set by the international agreement within the EAEU provided for in paragraph 7 of Annex 28 to this Treaty.

Application of subparagraphs 3 and 4 of this Article shall be based on the transitional provisions, provided for in paragraph 1 of Article 105 of this Treaty.

7. Disputes in respect of the provisions of this Article and Annex 28 to this Treaty shall be primarily resolved through the negotiations and consultations. If the dispute is not settled through negotiations and consultations within 60 calendar days from the date of a formal written request for their conduct sent by the member State that initiated the dispute to the respondent member State, than the complainant member State has the right to appeal to the Court of the EAEU.

If the decision of the Court of the EAEU is not implemented within the specified period of time or if the Court of the EAEU decides that the measures which were notified by the respondent member State are not consistent with the provisions of this Article and Annex 28 to this Treaty, the complainant member State shall be entitled to take proportionate counter measures.

8. The period when member States may challenge a specific subsidy, provided in violation of Annex 28 to this Treaty, shall be 5 years from the date of provision of specific subsidy.

## SECTION XXV

### AGRO-INDUSTRIAL COMPLEX

#### ARTICLE 94

##### Objectives and Tasks of Harmonized (Coordinated) Agro-Industrial Policy

1. In order to ensure the development of agriculture and rural areas in favor of the population of each member State and of the EAEU as a whole as well as of economic integration in the framework of the EAEU, the member States shall implement harmonized (coordinated) agro-industrial policy by, among other things, the following:

application of regulatory mechanisms provided for in this Agreement and other international agreements within the EAEU in the sphere of agro-industrial complex;

mutual provision by each member State to the other and to the Commission of production development plan for each of sensitive agricultural product. The list of such products shall be developed based on proposal of the member States and approved by the Council.

2. The aim of harmonized (coordinated) agro-industrial complex is the efficient realization of the member States resource potential for optimizing the volumes of production of competitive agricultural and food products, meeting the needs of the common agricultural market, and increasing export of agricultural and food products.

3. Implementation of harmonized (coordinated) agro-industrial complex shall cover the following objectives:

balanced development of production and markets of agricultural and food products;  
ensuring fair competition between entities of the member States, including equal access to the common agricultural market;  
unification of requirements relating to circulation of agricultural and food products;  
protection of the interest of agricultural producers on domestic and foreign markets.

## Article 95

### Basic Areas of Harmonized (Coordinated) Agro-Industrial Policy and Measures of State Support to Agriculture

1. Development of objectives of harmonized (coordinated) agro-industrial complex shall provide interstate cooperation in the following areas:

- 1) forecasting in the agro-industrial complex;
- 2) state support to agriculture;
- 3) regulation of common agricultural market;
- 4) unified requirements relating to the production and circulation of the products;
- 5) development of export process of agricultural and food products;
- 6) scientific and innovative development of agro-industrial complex;
- 7) integrated information support for agro-industrial complex.

2. To implement measures of harmonized (coordinated) agro-industrial complex, regular consultations regarding, among other things, sensitive agricultural products shall be held at least once a year by the member States organized by the Commission. Based upon the results of consultations, recommendations regarding implementation of harmonized (coordinated) agro-industrial complex shall be developed within areas specified in the paragraph 1 of this Agreement.

3. In implementing harmonized (coordinated) agro-industrial complex, member States shall take into account peculiar nature of activity of the agro-industrial complex, which may include not only industrial and economic significance of the sector, but social

significance of the sector as well as structural and natural-climatic differences between regions and territories of member States.

4. Implementation of policy in other areas of integrative cooperation, including in the sphere of sanitary, phytosanitary and veterinary (veterinary-sanitary) measures for agricultural products, shall be made based upon aim, objectives and areas of harmonized (coordinated) agro-industrial complex.

5. Within the EAEU, state support to agriculture shall be implemented in accordance with the "Protocol on Measures of State Support for Agriculture (Annex No. 29 to this Treaty).

6. Disputes relating to this Article and to the Annex 29 to this Treaty shall be primarily settled through negotiations and consultations with participation of the Commission. In the event that the dispute is not resolved through negotiations and consultations within 60 calendar days from the date of a formal request for consultations made by the member State that initiated the dispute to a member State defendant, member State appellant has the right to submit the dispute for settlement to the Court of the EAEU. When submitting a formal request for consultation, a member State appellant shall inform the Commission within 10 days after the date the request is submitted.

7. To implement harmonized (coordinated) agro-industrial complex, the Commission shall perform the following duties:

to develop, harmonized (coordinate) and implement together with member States areas of harmonized (coordinated) agro-industrial complex within the limits of its competence;

to coordinate the preparation by member States of joint forecasts of agro-industrial complex development as well as of demand and supply of agricultural and food products;

to coordinate member States' mutual provision of agricultural development programs;

to monitor member States' agriculture development and measures of state support to agriculture;

to monitor prices and to analyze competitiveness of products based on the HS Code mutually agreed by member States;

to assist in consultation and negotiation regarding the harmonization of legislation in the sphere of agro-industrial complex, including state support to agriculture and disputes settlement related to compliance of the commitment on state support to agriculture;

to monitor and implement comparative legal analysis of the legislation of member States' in the sphere of state support to agriculture on its compliance with the commitment under the EAEU;

to prepare and provide to the member States state policy review in the sphere of agriculture and state support to agriculture, including recommendations to improve the effectiveness of state support;

to provide an assistance to the member States on issues related to the calculation of state support to agriculture;

to develop together with member States recommendations on implementation of coordinated measures aimed at developing export potential in agro-industrial complex;

to coordinate joint scientific and innovative activities in the sphere of a agro-industrial complex, including those under the implementation of interstate programs by member States;

to coordinate the development and implementation by member States of unified requirements for import, export and movement of breeding products on the territory of Customs Union as well as of methods for determining the breeding value of breeding animals and breeding certificates;

to coordinate the development and implementation of unified requirements in the sphere of testing varieties and seed crops as well as the mutual recognition by member States of documents certifying varietal and sowing qualities of seeds;

to promote equal conditions for competition within the areas of harmonized (coordinated) agro-industrial complex.

## Section XXVI LABOR MIGRATION

### Article 96



## Cooperation between Member States in the Field of Labor Migration

1. The member States shall cooperate to coordinate policies in the field of labor migration within the EAEU, as well as to assist the organized recruitment and attracting member States employee for the their employment in the member States.

2. Cooperation of member States in the field of labor migration is carried out by collaboration of the public authorities of the member States who have the competence regarding relevant issues.

3. Cooperation of the member States in the field of labor migration within the EAEU is carried out in the following forms:

1) coordination of common approaches and principles in the field of labor migration;

2) exchange of regulatory legal acts;

3) information exchange;

4) implementation of measures aimed at preventing the spread of false information;

5) the exchange of experiences, organization of internships, seminars and training courses;

6) cooperation within advisory bodies.

4. Upon agreement the member States may define other forms of cooperation in the field of migration.

5. The definitions used in this section mean the following:

“State of entry” – the member State in whose territory a citizen of another member State is going to;

“State of residence” - a member State where the member State employee is a citizen;

“State of employment” - the member State in whose territory the work activity is carried out;

“Educational documents” - documents of State education, as well as documents on education, recognized at the level of public education documents issued by educational

organizations (educational institutions and organizations in education ) of the member States;

“Customer of works (services )” - a legal or natural person who provides a employee of a member State on the basis of a civil agreement concluded with him under terms and conditions prescribed by the legislation of the state of employment;

“Migration card (card)” - a document that contains information about a citizen of a member State to enter the territory of another member State and is used for accounting and control of their temporary stay in the territory of State of entry;

“Employer” - a legal or natural person who provides a member State employee a job on the basis of an employment agreement concluded with him in the manner and conditions prescribed by the legislation of the State of employment;

“Social insurance” – a compulsory insurance against temporary disability and maternity, compulsory insurance against accidents at work and occupational diseases and compulsory health insurance;

“Work activity” - activity based on the employment agreement or work performance (supply of services) on the basis of a civil law contract carried out in the territory of the state of employment in accordance with the legislation of that State;

“A member State employee” - a person who is a national of a member State lawfully residing and lawfully performing work in the territory of the State of employment, of which he is not citizen and who does not permanently reside in it;

“Family member” - a person married to the member State employee as well as children dependent on them and other persons who are recognized as members of the family in accordance with the legislation of the State of employment.

## Article 97

### Labor Activity of the Member States Employees

1. Employers and (or) customers of works (services ) of a member State are entitled to employ member States employees without restrictions for the protection of the national

labor market. At the same time, the member States employees are not required to obtain a permit for conduction of the work activities in the State of employment.

2. The member States shall not impose or apply restrictions set by their legislation in order to protect the national labor market, with the exception of restrictions established by this Treaty and the legislation of the member States in order to ensure national security (including the economic sectors of strategic importance) and public order regarding the occupation, work activity and residence area.

3. For the purposes of conduction of work activities by the member States employees in the State of employment the education documents, issued by education organizations (educational institutions, educational organizations) shall be recognized without referring to the procedures for the recognition of the education documents set by the legislation of the State of employment.

member States employees who aspire to engage in the educational, medical or pharmaceutical activities in other member State, shall undergo a procedure for the recognition of education documents established by the legislation of the state of employment and may be allowed accordingly to educational, medical or pharmaceutical activities in accordance with the legislation of the State of employment.

Documents of academic degrees and academic titles issued by the authorized bodies of the member States are recognized in accordance with the legislation of the State of employment.

Employers (customers of works (services)) have the right to request certified translations of documents on education to be translated into the language of the State of employment, as well as, if necessary, for the purpose of verification of documents on education of the member States employees to send requests, including by reference to information databases, in educational organizations (educational institutions, educational organizations) that issued the document on education and receive appropriate answers.

4. Labor activity of a member State employee is regulated by the legislation of the State of employment subject to the provisions of this Treaty.

5. Period of temporary stay (residence) of a member State employee and their family members in the State of employment are determined by the expiration period of an

employment or a civil law contract conducted by the member State employee with the employer or customer of works (services).

6. Citizens of a member State who arrived for the purpose of conduction of the work activity or employment in the territory of another member State shall be exempt from the obligation to register (registration) for 30 days from the date of entry.

In the case of stay of a national of one member State in the territory of another member State for more than 30 days from the date of entry, these citizens are required to register (registration) in accordance with the legislation of the State of entry, if such obligation is established by the legislation of the state of entry.

7. Citizens of a member State when entering the territory of another member State in cases specified by the legislation of the State of entry, use the migration cards (cards), unless otherwise is stipulated by international treaties of the member States.

8. Citizens of the member States when entering the territory of another member State with one of the valid documents that allow putting the state border crossing marks by border control bodies, provided that the period of their stay does not exceed 30 days from the date of entry, shall be exempt from the use of migration cards (cards), if such a requirement set by the legislation of the State of entry.

9. In case of termination of employment or civil law contract after the expiration of 90 days from the date of entry into the territory of the State of employment, a member State employee has the right without leaving the territory of the State of employment within 15 days to sign a new labor or civil law contract.

## Article 98

### Rights and Obligations of a Member State Employee

1. A member State employee has the right to conduct professional activities in accordance with the specialty and qualifications specified in the education documents, documents awarding academic degrees and (or) academic title, recognized in accordance with this Treaty and legislation of the Sate of employment.

2. A member State employee and their family members realize in accordance with the legislation of the State of employment, the right to:

- 1) to own, use and dispose their property;
- 2) protect their property ;
- 3) to freely transfer their funds.

3. The social protection (except for pensions) of member States employees and their family members is provided on the same terms and conditions as for the citizens of the State of employment.

Employment (insurance) experience of member States employees shall be counted in the total employment (insurance) experience for the purposes of social protection (except for pensions) in accordance with the legislation of the State of employment.

Retirement of member States employees and their family members is regulated by the legislation of the State of residence, as well as in accordance with separate international agreements between member States.

4. The right of member States employees and their family members to receive emergency medical care (in emergency and urgent forms) and other health care is regulated in accordance with the Annex 30, as well as the legislation the State of employment and international agreements to which it is a Party.

5. A member State employee shall have the right to join trade unions on par with the citizens of the State of employment.

6. A member State employee is entitled to receive information regarding the order of their stay, the conditions of conduction of work activities, as well as the rights and obligations stipulated by the legislation of the State of employment from the public authorities of the state of employment (which are competent in relevant issues) and from the employer (customer of works (services)).

7. At the request of a member State employee (including the former employee), the employer (customer of works (services) shall at no charge to give him a certificate (certificate) and (or) a certified copy of the certificate (certificates) with the profession (specialty, qualifications and positions) , the period of work and wages in the terms established by the legislation of the State of employment .

8. Children of a member State employee residing with them in the territory of the state of employment are entitled to attend preschool, get education in accordance with the legislation of the State of employment.

9. member States employees and their family members must observe the legislation of the state of employment, respect the culture and traditions of the state of employment and be liable for offenses committed under the legislation of the State of employment.

10. Revenues of a member State employee received as a result of conduction of the work activity in the territory of the state of employment shall be subject to taxation in accordance with international treaties and legislation of the State of employment subject to the provisions of this Treaty.

PART FOUR  
TRANSITIONAL AND FINAL PROVISIONS  
SECTION XXVII  
TRANSITIONAL PROVISIONS

Article 99

General Transitional Provisions

1. International agreements of member States concluded within the framework of formation of the legal framework of the Customs Union and the Single Economic Space, and are effective on the date of entry into force of this Treaty, shall be the part of the law of the EAEU and shall be applied in the part which is not inconsistent with this Treaty.

2. The Decisions of the Eurasian Economic Supreme Council at the level of Heads of States, level, Eurasian Economic Supreme Council at the level of Heads of Governments and Eurasian Economic Commission, which are effective on the date of entry into force of this Treaty, shall remain in force and shall be applied in the part which is not inconsistent with this Treaty.

3. From the date of entry into force of this Treaty:

functions and powers of the Eurasian Economic Supreme Council at the level of Heads of States and Eurasian Economic Supreme Council at the level of Heads of Governments, were effective in accordance with the Treaty on the Eurasian Economic Commission of 18 October 2011, shall be carried out by the Supreme Council and the Intergovernmental Council acting in accordance with this Treaty;

Eurasian Economic Commission, established in accordance with the Treaty on the Eurasian Economic Commission of 18 October 2011, shall act in accordance with this Treaty;

the Members of the Collegium of the Commission appointed before the entry into force of this Treaty, shall continue to fulfill their functions until the expiration of the term for which they have been assigned;

the Directors and Deputy Directors of departments, that have signed their labor agreements up to the entry into force of this Treaty, shall continue to perform their duties until the expiration of the terms stipulated in the labor agreements;

the vacant positions in the structural units of the Commission shall be carried out based on procedure, provided by this Treaty.

4. International agreements listed in the Annex 31 to this Treaty shall also act in the framework of the EAEU.

## Article 100

### Transitional Provisions for Section VII

1. Functioning of common market of drugs within the framework of the EAEU shall be carried out since 1 January 2016 in accordance with an international agreement within the framework of the EAEU, defining the common principles and rules for the circulation of drugs which shall be concluded by member States no later than 1 January 2015.

2. Functioning of common market of medical products ( healthcare products and medical devices) within the framework of the EAEU shall be carried out since 1 January 2016 in accordance with an international agreement within the framework of the EAEU, defining the common principles and rules for the circulation of medical products

(healthcare products and medical devices), which shall be concluded by member States no later than 1 January 1.

## Article 101

### Transitional Provisions for Section VIII

1. Customs regulation in the EAEU shall be conducted in accordance with the Treaty on the Customs Code of the customs union of 27 November 29 and other international treaties of the member States, stipulating customs legal relations, which were concluded within the framework of formation of the legal base of the Customs Union and Single Economic Space, and included in to the Law of the EAEU in accordance with Article 99 of this Treaty, taking into account the provisions of this Article.

2. For the purpose of application of international agreements, provided in Paragraph 1 of this Article, the following definitions are used:

Member States of the Customs Union – member States in the meaning, determined by this Treaty;

“common customs territory of the customs union (customs territory of the customs union)” – customs territory of the EAEU;

“common commodity nomenclature of foreign economic activity of the customs union (commodity nomenclature of foreign economic activity)” – common Commodity Nomenclature of Foreign Economic Activity of the Eurasian Economic Union;

“common external tariff of the customs union” – Common External Tariff of the Eurasian Economic Union;

“Commission of the Customs Union” - Eurasian Economic Commission;

“international treaties of the member States of the customs union” - international treaties within the framework of the EAEU, including international treaties of the member States, included into the Law of the EAEU according to Article 99 of this Treaty;

“customs border of the customs union (customs border)” – customs border of the Eurasian Economic Union;



“product of the customs union” – product of the Eurasian Economic Union.

3. Article 51 of the Customs Code of the Customs Union concerning maintenance of the common Commodity Nomenclature shall be applied taking into account Article 45 of this Treaty.

4. Article 74 of the Customs Code of the Customs Union concerning tariff exemptions shall be applied taking into account Article 43 of this Treaty.

## Article 102

### Transitional Provisions for Section IX

1. Regardless the provisions of Article 35 of this Treaty, member States are eligible to grant tariff preferences in trade with third countries unilaterally based on international treaty of the member State with the third country concluded before 1 January 2015, or international treaty concluded by all member States.

Member States shall unify treaties based on which tariff preferences are granted.

2. Safeguard, antidumping and countervailing measures applied in respect of goods imported into the customs territory of the EAEU through the review of safeguard, antidumping and countervailing measures in force in accordance with the legislation of member States shall apply until the expiry of the measures established by the relevant decision of the Commission, and may be subject to review in accordance with the provisions of Section IX of this Treaty and Annex № 8 to it.

3. For the purpose of implementation of Article 36 of this Treaty, the Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008 shall be applied until a Commission Decision, stipulating conditions and procedure for application of common system of tariff preferences of the EAEU in respect of goods originating from developing and (or) least-developed countries, enters into force.

4. Prior to the entry into force of the decision of the Commission under paragraph 2 of Article 37 of this Treaty and establishing the rules for determining the country of origin

of goods, the Agreement on common rules for determining the country of origin of goods, as of January 25, 2008 is applied.

5. Prior to the entry into force of the decision of the Commission under paragraph 3 of Article 37 of this Agreement establishing the rules for determining the country of origin of goods, there is applied the Agreement on Rules of Origin of goods from developing and least developed countries as of December 12, 2008.

#### Article 103

##### Transitional Provisions for Section XVI

1. In order to achieve the objectives set out in paragraph 1 of Article 70 of this Treaty, member States will accomplish harmonization of their legislation in the field of financial markets by 2025 in accordance with an international agreement within the framework of the EAEU and the Protocol on financial services (Annex 17 to this Treaty).

2. Member States upon harmonization of legislation in the field of financial markets will decide on the powers and functions of a supranational body to regulate financial markets and create this supranational body in Almaty in 2025.

#### Article 104

##### Transitional Provisions for Section XX

1. For the purpose of providing for the development of indicative (estimated) balances of gas, oil and petroleum products of the EAEU, contributing to the effective use of the total energy potential and optimization of interstate supply of fuel and energy resources, the competent authorities of member States before 1 January 2016 shall develop and approve methodology for forming of indicative (estimated) balances of gas, oil and petroleum products.

2. For the purpose of forming common energy market of the EAEU the Supreme Council before 1 July 2015 shall approve a concept, and before 1 July 2016 a program for

establishment of a common energy market of the EAEU, providing a terms for execution of the program until 1 July 2018.

3. After the completion of the execution of program for forming a common energy market of the EAEU the member States shall conclude an international agreement within the EAEU on the formation of a common energy market of the EAEU, containing common rules for access to the services of subjects of natural monopolies in the electricity sector, and will ensure its entry into force no later than 1 July 2019.

4. For the purposes of forming a common gas market of the EAEU the Supreme Council before 1 January 2016 shall approve a concept, and before 1 January 1 the program for the formation of common gas market of the EAEU, providing time frames for the execution of program activities until 1 January 2024.

5. After the completion of the execution of program for forming a common gas market of the EAEU the member States shall conclude an international agreement within the EAEU on the formation of a common gas market of the EAEU, containing common rules for access to the transmission systems located on the territories of the member States, and will provide its entry into force not later than 1 January 2025.

6. For the purposes of forming a common markets of oil and petroleum products the Supreme Council before 1 January 2016 shall approve a concept and before 1 January 2018 a program for the formation of common markets of oil and petroleum products of the EAEU, providing a time frame for the execution of the program until 1 January 2024.

7. After the completion of the execution of program for forming a common markets for oil and petroleum products of the EAEU member States shall conclude an international agreement on the formation of common markets for oil and petroleum products of the EAEU, containing common rules for access to the systems of transportation of oil and petroleum products, located in the territories of member States, and ensure its entry into force no later than 1 January 2025.

8. Protocol on providing for an access to services of subjects of natural monopolies in the electricity sector, including the basics of pricing and tariff policy (Annex 21 to this Treaty) shall be effective before the international agreement provided in paragraph 3 of this Article come into force.

9. Protocol on the rules of access to services of subjects of natural monopolies in the sphere of transportation of gas on transportation systems, including the basics of pricing and tariff policy (Annex 22 to this Treaty) shall be effective before the international agreement provided in paragraph 5 of this Article come into force.

10. Protocol on the organization, management, operation and development of common markets of oil and petroleum products (Annex 23 of this Treaty) shall be effective before the international agreement provided in paragraph 7 of this Article come into force.

#### Article 105

##### Transitional Provisions for Section XXIV

1. The member States shall ensure the entry into force of an international treaty within the EAEU, provided by paragraph 7 of the Protocol on Common Rules for Granting Industrial Subsidies (Annex 28 to this Protocol), from January 1, 2017.

From the date of entry into force of the international agreement the provisions of sub-paragraphs 3 and 4 of paragraph 6 of Article 93 of this Agreement, paragraphs 6, 15, 20 , 87 and 97 of the Protocol on Common Rules for the Granting of Industrial Subsidies (Annex 28 to this Protocol) shall enter into force.

2. Provisions of Article 93 of this Agreement and Protocol on Common Rules for Granting of Industrial Subsidies (Annex 28 to his Protocol) shall not apply to the subsidies granted to the territories of the member States before January 1, 2012.

#### Article 106

##### Transition Provisions for Section XXV

1. For the Republic of Belarus regarding paragraph 8 of the Protocol on Measures of State Support to Agriculture (Annex No. 29 to this Treaty) transition period is established

until 1 of January 2016, during which the Republic of Belarus takes a commitment to reduce trade-distorting level of support as follows:

in 2015 – 12 per cent;

in 2016 - 10 per cent.

2. Methodology for calculation of state support volumes provided for in paragraph 8 of the Protocol on Measures of State Support to Agriculture (Annex No. 29 to this Treaty), shall be developed and approved by 1 of January 2016.

3. Commitments provided for in the third point of paragraph 8 of the Protocol on Measures of State Support to Agriculture (Annex No. 29 to this Treaty) shall come into force for the Republic of Belarus no later than 1 January 2025.

## SECTION XXVIII FINAL PROVISIONS

### Article 107

#### Social Guarantees, Privileges and Immunities

On the territories of each member State, the members of the Council of the Commission and Collegium of the Commission, judges of the Court of the EAEU, officers and employees of the Commission and the Court of the EAEU shall have social guarantees, privileges and immunities which are necessary for the execution by them their mandates and official (service) duties. The volume of these social guarantees, privileges and immunities is determined according to Annex 32 to this Treaty.

### Article 108

#### Accession to the EAEU

1. The EAEU shall be open for the accession by any State that shares its aims and principles, on terms agreed by the member States.

2. To obtain the status of a candidate State to access to the EAEU interested State shall send its appeal to the Chairman of the Supreme Council.

3. A decision to grant a State the status of a candidate State for accession in the EAEU shall be taken by the Supreme Council by consensus.

4. Based on the decision of the Supreme Council working group of representatives of the candidate State, member States and bodies of the EAEU (hereinafter - the working group) shall be formed to examine the degree of preparedness of the candidate State to take on the obligations arising from the law of the EAEU, development of the draft program on actions for accession of candidate State in the Eurasian Economic Union, as well as a draft of international agreement on accession of the State in the EAEU, which defines the scope of the rights and responsibilities of the candidate State, as well as the format of its participation in the work of the bodies of the EAEU .

5. The Program of Actions on the accession of the candidate State into the EAEU shall be approved by the Supreme Council.

6. The working Group on a regular basis shall submit to the Supreme Council a report on the implementation by the candidate State of the Program on Action for accession of the candidate State to the Eurasian Economic Union. Based on the conclusion of the working group that the candidate State fully met the obligations arising from right of EAEU, the Supreme Council shall take a decision on signing with the candidate State of the international treaty of accession to the EAEU. The above said agreement shall be subject to ratification.

## Article 109

### Observer States

1. Any State has a right to address to the Chairman of the Supreme Council to obtain the status of an Observer State in the EAEU.

2. Decision on granting the status of an Observer State in the EAEU or on the refusal to grant such status shall be made by the Supreme Council based on interests of development of integration and achievement of the objectives of this Treaty.

3. Authorized representatives of an Observer State in the EAEU may be present by the invitation at meetings of the bodies of the EAEU, to receive taken by the bodies of the EAEU documents that are not confidential.

4. The status of an Observer State in the EAEU does not give the right to participate in decision-making of the bodies of the EAEU.

5. A State receiving the status of the Observer State in the EAEU is obliged to refrain from any action that could harm the interests of the EAEU and its member States, the object and purpose of this Treaty.

## Article 110

### Working Language of the EAEU Bodies.

#### Language of International Agreements Within the Framework of the EAEU and the Commission Decisions

1. The working language of the EAEU shall be the Russian language.

2. International agreements with the EAEU and the Commission decisions that are binding on the member States shall be adopted in Russian and then translated into national languages of the member States, if it is provided by their legislation, in the manner determined by the Commission.

Translation into the national languages of the member States shall be made at the expense of the funds allocated in the budget of the EAEU for the purpose.

3. In case of divergence of interpretation of the international agreements and the decisions referred to in paragraph 2 of this Article, the Russian text shall be used.

## Article 111

### Access and Publication

1. International agreements concluded within the EAEU, international agreements with third countries and decisions of the EAEU bodies shall be published in the official website of the EAEU in the order determined by the Intergovernmental Council.

The date of publication of decision of the EAEU's body in the official website is considered to be as a date of official publication of the decision.

2. None of decisions, stipulated in Paragraph 1, shall not enter into force before their official publication.

3. Decisions of the EAEU body shall be sent to the Parties no later than three calendar days from the date of the decision.

4. The EAEU bodies shall provide preliminary publication of the draft decisions on the official website of the EAEU, at least 30 calendar days before the date on which a decision is scheduled for adoption. Draft decisions of the EAEU bodies taken in exceptional cases that required immediate reaction could have another date of entry into force.

The interested persons may submit to this body their comments and proposals.

The procedure for collection, analysis and assessment of these comments and proposals shall be determined by the rules of the relevant body of the EAEU.

5. The decisions of the EAEU bodies, containing information of restricted distribution and its decision drafts shall not be officially published.

6. This Article shall not apply to decisions of the Court of the EAEU. The procedure of entering into force and the publication the EAEU Court decisions are stipulated by Statute of the EAEU Court of the Eurasian Economic Union (Annex № 2 to this Treaty).

7. Paragraph 4 of this Article shall not apply to decisions of the EAEU bodies in cases when preliminary publication of such decision drafts precludes to their enforcement or otherwise be contrary to the public interests.

## Article 112

### Dispute Settlement

Disputes relating to the interpretation and (or) the application of provisions of this Treaty shall be settled through the consultation and negotiation.

If no agreement has been reached within 3 months from the date when one party of dispute send the other party of the dispute a formal written request for conducting



consultations and negotiations, unless otherwise is provided by the Statute of the Court of the Eurasian Economic Union (Annex No. 2 to this Treaty), the dispute may be submitted by either party of dispute to the Court of the EAEU, if the parties of dispute have not agreed to use other mechanisms for its resolution.

#### Article 113

##### Entry of the Treaty into Force

This Treaty shall come into force from the date of receipt by the Depositary of the last written notification that the member States have executed their internal procedures necessary for its entry into force.

With the entry into force of this Treaty, the international agreements concluded in the framework of the Customs Union and the Common Economic Union according to the Annex No. 33 to this Treaty shall be terminated.

#### Article 114

##### Relation of this Treaty to Other International Agreements

1. This Treaty shall not prevent the member States from concluding international agreements that are not contrary to the purposes and principles of this Treaty.

2. Bilateral international agreements between the member States, providing more in-depth compared with the provisions of this Treaty or international agreements within the EAEU, level of integration or provision of additional benefits in favor of their natural and (or) legal persons can be concluded provided that they do not affect implementation of these and other member States of the EAEU of their rights and perform their obligations hereunder and international treaties within the EAEU.

#### Article 115

##### Introduction of Amendments to the Treaty

This Agreement may be amended by separate protocols, which shall be formed as separate Protocol and shall be an integral part of this Treaty.

Article 116  
Registration of the Treaty in the Secretariat  
of the United Nation Organization

This Treaty in accordance with Article 102 of the Statute of the United Nation Organization shall be registered with the Secretariat of the United Nation Organizations.

Article 117  
Clauses

Clauses to this Treaty shall not be permitted.

Article 118  
Withdrawal from the Treaty

1. Any member State may withdraw from this Treaty, having sent to the Depositary of this Treaty through diplomatic channels a written notice of its intention to withdraw from this Treaty. This Treaty in respect of that State shall cease after 12 months from the date of receipt by the depositary of this Treaty of such notification.

2. A member State which has notified in accordance with paragraph 1 of this Article on its intention to withdraw from this Treaty shall be obliged to settle its financial obligations incurred in connection with its participation in this Treaty. This obligation remains in force despite the withdrawal of the State from this Treaty, up to its full implementation.

3. On the basis of the notification referred to in paragraph 1 of this Article the Supreme Council shall decide to begin the process of settlement of obligations arising in connection with the participation of a member State in this Treaty.

4. Withdrawal from this Treaty shall automatically entail the termination of membership in the EAEU and withdrawal from the international agreements in the framework of the EAEU.

Done in Astana on 29 May 2014, signed in a single copy in the Belarusian, Kazakh and Russian languages, all texts shall be equally authentic.

In case of any divergence of interpretation of this Treaty the Russian text shall be used.

The original of this Treaty shall be deposited in the Eurasian Economic Commission, which, as the depositary of this Treaty, shall send each Party a certified copy of this Treaty.

ANNEX 1  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on the Eurasian Economic Commission

I. General Provisions

1. According to point 1 of Article 18 of the Treaty on the Eurasian Economic Union (hereinafter – the EAEU Treaty) the Commission shall be a permanent regulatory body of the EAEU.

The primary objective of the Commission shall be to provide conditions for the operation and development of the EAEU and to work out economic integration initiatives within the framework of the EAEU.

2. The Commission shall act in accordance with the following principles:

- 1) ensuring mutual advantage, equality, and respect of the national interests of the member States;
- 2) economic feasibility of decisions being taken;
- 3) openness, publicity, and objectivity.

3. The Commission shall act within the powers provided by this Treaty and international treaties within the EAEU in the following areas:

- 1) Customs tariff and non-tariff regulation;
- 2) Customs administration;
- 3) Technical regulation;
- 4) Sanitary, veterinary, and phytosanitary measures;
- 5) Transfer and distribution of import customs duties;
- 6) Establishment of trade regimes for third countries;
- 7) Statistics of external and mutual trade;

- 8) Macroeconomic policy;
- 9) Competition policy;
- 10) Industrial and agricultural subsidies;
- 11) Energy policy;
- 12) Natural monopolies;
- 13) State and (or) municipal procurement;
- 14) Mutual trade in services and investment;
- 15) Transport and transportation;
- 16) Currency policy;
- 17) Intellectual property;
- 18) Labor migration;
- 19) Financial markets (banking, insurance, foreign exchange market, stock market);
- 20) Other areas.

4. Within its powers, the Commission shall ensure the implementation of international treaties constituting the contractual legal basis for the EAEU.

5. The Commission shall function as a depository of international treaties within the EAEU and of decisions taken by the Supreme Council and the Intergovernmental Council.

6. The Commission may be authorized by the Supreme Council to sign international treaties on issues within its competence.

7. For the purpose of ensuring effective operation of the EAEU, the Commission shall have the right to form consultative bodies to hold consultations on specific issues the decision on which falls within the competence of the Commission.

8. The Commission shall have the right to request the member States information on the issues under its consideration. Request shall be send to the Governments of the member States. The Commission shall also have the right to request executive authorities of the member States, legal entities, and natural persons information needed to exercise its powers. Copies of the requests of the Commission to legal entities and natural persons, excluding requests containing confidential information shall be send to the executive authorities of the member States. Request on behalf of the Commission to provide position

or information shall be sent by the Chairman of the Collegium of the Commission or member of the Collegium of the Commission, unless otherwise is provided by the Treaty.

The executive authorities of the member States shall provide the requested information within the time limits established by the Regulations on condition that such information does not contain any data classified by the legislation of its state as state secret or as restricted information.

The procedure for exchanging information that contains data classified by the legislation of each member State as state secret or restricted information shall be established by specific international treaties within the EAEU.

9. The Commission shall be responsible for the budget of the EAEU and preparation of the report on its implementation.

10. The Commission shall have the rights of a legal entity.

11. The Commission shall consist of the Council of the Commission and the Collegium of the Commission. The operating procedures of the Council of the Commission and the Collegium of the Commission shall be governed by the Eurasian Economic Commission Regulations (hereinafter, the Regulations) to be approved by the Supreme Council.

12. Within the frames of its activities, the Commission shall have the right to form structural units (hereinafter, the departments of the Commission).

13. Within its powers, the Commission shall pass decisions binding for the member States, regulations of organizational nature and recommendations not binding for the member States.

The decisions of the Commission shall be a part of the contractual legal basis of the EAEU and be subject to direct application on the territories of the member States.

14. The Council of the Commission and the Collegium of the Commission shall accept decisions and recommendations of the Commission within their powers set forth hereby and according to the procedure specified in this Treaty and in the Regulations.

Delineation of powers and functions between the Council of the Commission and the Collegium of the Commission shall be determined by the Regulations.

15. Decisions of the Commission that may influence conditions for entrepreneurial activity shall be taken based on the results of assessment of such draft decisions.

Procedure on assessment of draft decisions of the Commission shall be defined by the Regulations.

16. Unless otherwise provided by the Treaty and international treaties within the EAEU, decisions of the Commission shall come into force no earlier than 30 calendar days after being officially published.

The decisions of the Commission specified in paragraph 18 of the present Protocol and those taken in exceptional circumstances demanding prompt response may have another deadline for coming into force, but no earlier than 10 calendar days after being officially published.

The procedure for taking and entering into force of decisions of the Commission specified in second paragraph of the present point shall be established by the Regulations.

Decisions of the Commission containing restricted information shall enter into force within deadline defined in these Decisions.

Regulations of the Commission shall enter into force within deadline defined in the Regulations.

17. Decisions of the Commission that degrade the status of natural persons and (or) legal entities shall have no retroactive effect.

18. Decisions of the Commission that improve the status of natural persons and (or) legal entities may have a retroactive effect if explicitly providing such improvement.

19. Procedure on publication of decisions of the Commission shall be established in accordance with article 111 of the Treaty.

20. The Commission shall take decisions pursuant to the procedure established by Article 18 of the Treaty and by the present Protocol, by voting of members of the Council of the Commission or of the Collegium of the Commission.

21. Votes shall be distributed in the Commission as follows:

a) Council of the Commission – one vote of a member of the Council of the Commission shall be one vote;

b) Collegium of the Commission – one vote of a member of the Collegium of the Commission shall be one vote.

## II. Council of the Commission

22. The Council of the Commission shall exercise general regulation of integration processes in the EAEU, as well as general management of the Commission.

23. The Council of the Commission shall include one representative from each member State, who is the deputy head of the Government vested with full power by the legislation of a respective member State.

The member States shall notify one another and the Collegium of the Commission about their representative to the Council of the Commission as established by the Regulations.

The Council of the Commission shall exercise the following functions and powers:

- 1) arrange work on improving the regulatory legal basis of the EAEU;
- 2) submit main directions of integration within the framework of the EAEU for the approval of the Supreme Council;
- 3) review issues of reversing or altering the decisions taken by the Collegium of the Commission in accordance with the procedure set forth in point 30 of the present Protocol;
- 4) review issues of monitoring and supervising the implementation of international treaties that constitute the contractual legal basis for the EAEU;
- 5) present for consideration of the Intergovernmental Council report on monitoring of the assessment procedure;
- 6) approve, upon the recommendation of the Chairperson of the Collegium of the Commission, the list of departments of the Commission, their staff numbers and distribution among members of the Collegium of the Commission;
- 7) approve job specifications for employees of the Commission;



8) take decisions on depriving the Commission employees of privileges and immunities on the grounds specified by the Protocol on the Privileges and Immunities of the Eurasian Economic Union (Annex 32 to the Treaty);

9) approve the budget of the Commission;

10) approve the payment procedure for members of the Collegium of the Commission and employees of the Commission;

11) approve the total staff limits for the departments of the Commission;

12) approves plan on establishment and development of the integrated information system of the EAEU;

13) appoint an ethics committee under the Council of the Commission and approve its regulations to ensure the observance of the rights of the citizens of the member States to work in the departments of the Commission;

14) instruct the Collegium of the Commission;

15) exercise other functions and powers in compliance with the Regulations.

24. The Council of the Commission shall be entitled to select issues on which the Collegium of the Commission must hold consultations within the frames of the consultative body formed under point 44 hereof, before a decision is made by the Council of the Commission or by the Collegium of the Commission.

25. Meetings of the Council of the Commission shall be held as prescribed by the Regulations. Any member of the Council of the Commission shall be entitled to initiate a meeting of the Council of the Commission and to introduce proposals into the agenda.

A meeting of the Council of the Commission shall be deemed to be duly constituted if attended by all members of the Council of the Commission.

26. The Chairperson of the Collegium of the Commission shall participate in meetings of the Council of the Commission, as well as members of the Collegium of the Commission invited by the Council of the Commission. Members of the Council of the Commission may invite representatives of the member States to attend meetings of the Council of the Commission.

Representatives of third states may participate in the meetings of the Council of the Commission in accordance with conditions established by the present Treaty.

28. The chairmanship of the Council of the Commission shall be established in accordance with point 4 of Article 8 of the Treaty.

Should the powers of the Chairperson of the Council of the Commission terminate early, another member of the Council of the Commission representing the presiding member State shall exercise the powers of the Chairperson of the Council of the Commission during the remaining period.

The Chairperson of the Council of the Commission shall:

exercise general management in preparing issues to be considered at a regular meeting of the Council of the Commission;

set the agenda;

open, preside over and adjourn the meetings of the Council of the Commission.

29. The Council of the Commission shall pass decisions and recommendations within its powers.

The Council of the Commission shall make decisions by the consensus.

Should no consensus be achieved, the issue shall be submitted for the consideration of the Supreme Council or the Intergovernmental Council at the suggestion of any member of the Council of the Commission.

30. A member State or a member of the Council of the Commission shall have the right to submit to the Collegium of the Commission a proposal on reversing or altering a decision within 15 calendar days after such decision is taken by the Collegium of the Commission.

On the day of the receipt of the proposal, the Chairman of the Collegium shall forward materials on such decision to the members of the Council of the Commission.

Within 10 calendar days after receiving the materials on such decision the Council of the Commission shall consider them and take a decision.

After the Council of the Commission considers the issue on reversing or altering a decision of the Collegium of the Commission or upon the deadline provided by the third paragraph of this point, but no later than 30 calendar days after the official publication of the decision of the Council of the Commission, a member State disagreeing with the decision of the Council of the Commission may send to the Commission a letter signed by

the Head of its Government and containing a suggestion to refer to the Supreme Council or the Intergovernmental Council the issue on the decision of the Collegium of the Commission proposed to be reversed or altered.

Regarding the Commission's decisions specified in the second paragraph of point 16 of the present Protocol, the Head of the Government of any member State shall have the right to address the Commission with a proposal on submitting the issue related to such decisions for consideration of the Supreme Council and (or) the Intergovernmental Council at any stage before the decisions come into force.

A decision of the Collegium of the Commission proposed to be reserved or altered according to the present point shall not come into force until considered by the Supreme Council and (or) the Intergovernmental Council.

### III. The Collegium of the Commission

31. The Collegium of the Commission shall be an executive body of the Commission.

The Collegium of the Commission shall consist of members of the Collegium, one of whom shall be its Chairperson.

The Collegium of the Commission shall include representatives from each member State based on the principle of equal representation of the member States.

The Supreme Council shall define number of members of the Collegium of the Commission and assignment of the duties among members of the Collegium of the Commission.

The Collegium of the Commission shall administer the departments of the Commission.

32. A member of the Collegium of the Commission shall be a citizen of a member State he/she is represented by.

The members of the Collegium of the Commission shall meet the following requirements:

have professional training (qualification) corresponding to their official duties, as well as work experience in line with the official duties of at least 7 years which include at least 1 year of holding a post in state bodies of the member States.

33. The members of the Collegium of the Commission shall be appointed for a term of 4 years with a possible extension of their powers by the Supreme Council.

The Chairperson of the Collegium of the Commission shall be appointed for a term of 4 years by the Supreme Council at the basis of rotation without prolongation. Rotation shall be based on the alphabetic order of the names of the member States in Russian.

34. The members of the Collegium of the Commission shall be permanent employees of the Commission. In discharging their official duties, the members of the Collegium of the Commission shall not depend on state bodies and officials of the member States and shall not request for or receive instructions from the authorities or officials of the member States.

Cooperation of the members of the Collegium of the Commission with the member States on the issues of international activity shall be determined according to the Regulation on international cooperation of the Eurasian Economic Union approved by the Supreme Council.

35. Throughout the term of their powers, the members of the Collegium of the Commission shall have no right to combine such work with another work or engage in other remunerated activities with the exception of teaching, scientific or other creative activities.

36. The members of the Collegium of the Commission shall not:

- 1) participate in management of a profit organization on a paid basis;
- 2) carry out entrepreneurial activities;
- 3) receive, in connection with their official duties, remuneration (gifts, money, loans, services, payments for entertainment, recreation, compensation of transport expenses and other remuneration) from natural persons and legal entities. Gifts received by a member of the Collegium of the Commission in connection with protocol events, business trips, or other official events shall be deemed to be the property of the Commission and shall be handed over to the Commission by a respective deed. A member

of the Collegium of the Commission having handed over a gift received in connection with protocol events, business trips, or other official events may buy out such gift according to the procedure approved by the Council of the Commission;

4) travel, in connection with their official duties, at the cost of natural persons or legal entities;

5) use logistics and other support facilities and other assets of the Commission for purposes not related to their official duties or transfer such facilities and assets to other persons;

6) disclose or use, for purposes not related to their official duties, any information classified as confidential or any private information that they learn in connection with their official duties;

7) use their official powers in the interests of political parties, other public associations, religious associations, and other organization, or publicly declare on behalf of the members of the Collegium of the Commission their attitude toward such associations and organizations, provided such activity is not a part of the official duties;

8) form or contribute to the formation of structures of political parties, other public associations (except trade unions, veteran organizations, and bodies of public initiative) and religious associations within the Commission.

37. A member of the Collegium of the Commission owning profitable securities and (or) shares (stakes in authorized capitals of companies) shall place such securities and (or) shares (stakes in authorized capitals of companies) in trust within a reasonable period.

38. Restrictions as per items 35-37 of the present Protocol shall apply as well to the employees of the departments of the Commission.

39. Any violation of the restrictions as per items 35-37 of the present Protocol shall form the basis for early termination of powers of a member of the Collegium of the Commission or an employee of a department of the Commission.

40. Each member State shall submit nominees to the Collegium of the Commission for the consideration of the Supreme Council.

The membership of the Collegium of the Commission including the Chairperson of the Collegium of the Commission shall be approved by the Supreme Council upon the recommendation of the member States.

Should the Supreme Council not approve a nominee to the Collegium of the Commission, the member State shall nominate another person within 30 calendar days.

41. The member States shall have no right to recall any member of the Collegium of the Commission except for improper performance of his/her official duties and provisions of items 35-37 of the present Protocol.

42. Early termination of the powers of a member of the Collegium of the Commission (except voluntary resignation) shall be carried out on the basis of the decision of the Supreme Council upon the recommendation of a member State.

In the case of an early termination of the powers of a member of the Collegium of the Commission, another member of the Collegium of the Commission shall be appointed upon the recommendation of the member State that had nominated the member of the Collegium of the Commission whose powers were terminated, for the remaining term of office of the previous member of the Collegium of the Commission.

The Supreme Council shall approve the duty distribution among the members of the Collegium of the Commission, the total staff limit for the departments of the Commission, and the payment procedure for the members of the Collegium of the Commission and employees of the departments of the Commission (including their monetary allowance).

43. The Collegium of the Commission shall exercise the following functions and powers:

1) work out initiatives and collect proposals of the member States on integration within the framework of the EAEU (including the development and implementation of the main directions of integration);

2) pass decisions, instructions and recommendations;

3) implement decisions and instructions taken by the Supreme Council and the Intergovernmental Council and decisions taken by the Council of the Commission;

- 4) monitor and supervise the implementation of international treaties constituting the legal basis of the EAEU, and decisions of the Commission, as well as notify member States on necessity of their implementation;
- 5) report annually to the Council of the Commission on its work;
- 6) work out recommendations on the formation, functioning and development of the EAEU;
- 7) prepare written expert opinions on proposals submitted by the member States to the Commission;
- 8) assist the member States in dispute settlement within the framework of the EAEU prior to applying to the Court of the EAEU;
- 9) provide representation of the Commission in court instances including the Court of the EAEU;
- 10) interact, within its powers, with government authorities of the member States;
- 11) consider requests submitted to the Commission;
- 12) approve upon presentation by the Chairman of the Collegium of the Commission plan of foreign trips of members of the Commission, officials and employees of the Commission for the following year;
- 13) approve upon presentation by the Chairman of the Collegium of the Commission plan on scientific and research works for the following year after its consideration by the consultative committees, inform the Council of the Commission on the indicated plan;
- 14) draft the budget of the Commission and prepare reports on its implementation, provide implementation of the budget estimate of the Commission;
- 15) develop drafts of international treaties and decisions of the Commission taken by the Council of the Commission, as well as other documents needed for the Commission to exercise its powers;
- 16) conduct according to the established order procedure of regulatory assessment and provide preparation of annual report on monitoring of conduct of such procedure;

17) arrange meetings of the Council of the Commission, the Intergovernmental Council and the Supreme Council as well as subsidiary bodies established according to point 3 of Article 5 of the Treaty;

18) submit to the Council of the Commission proposals on depriving the Commission officials and employees of privileges and immunities;

19) place orders and enter into agreements for the supply of goods, performance of work, and rendering of services for the needs of the Commission as prescribed by the regulations approved by the Council of the Commission;

20) ensure compliance with the procedure for handling documents of restricted distribution (confidential and for official use only) approved by the Council of the Commission.

44. By its decision, the Collegium of the Commission shall have the right to form consultative bodies under the Collegium of the Commission, the activities and office procedures for which shall be set forth in regulations approved by the Collegium of the Commission. In order to consider issues defined by the Council of the Commission establishment of the consultative body shall be obligatory.

45. The consultative bodies under the Collegium of the Commission shall consist of authorized representatives of the executive authorities of the member States.

Upon proposal of the member States, consultative bodies under the Collegium of the Commission may include business representatives, scientific and public organizations and independent experts.

46. Within their powers, the consultative bodies under the Collegium of the Commission shall work out proposals for the Commission on matters within their competence. Proposals of the members of the consultative bodies, presented at the meetings of the consultative bodies, shall not be considered as final position of the member States.

47. The Commission shall provide organizational and technical support to the activities of the consultative bodies under the Collegium of the Commission.

Expenses related to the participation of the authorized representatives of state authorities of the member States in the consultative bodies under the Collegium of the Commission



shall be borne by the represented member States. Expenses related to the participation of the business representatives, scientific and public organizations and independent experts in the consultative bodies under the Collegium of the Commission shall be borne by indicated persons independently.

48. The Collegium of the Commission shall pass decisions, instructions and recommendations within the scope of its powers.

The decisions, instructions and recommendations of the Commission passed by the Collegium of the Commission shall be signed by the Chairperson of the Collegium of the Commission.

49. The Collegium of the Commission shall hold meetings at least once a week.

Members of the Collegium of the Commission shall attend the meetings in person, without the power of substitution. In the case of objective impossibility to attend a meeting of the Collegium of the Commission, a member of the Collegium of the Commission shall have the right, as prescribed by the Regulations, to present his/her stand in writing or to delegate, by proxy and by consent of the Chairperson of the Collegium of the Commission, the right of representing his/her stand to a director of a department of the Commission whose competence includes the issue under consideration. In this case, the director of the department of the Commission shall have no voting right.

Meeting of the Collegium of the Commission can be attended by one representative from the member States.

Special meetings may be held at the request of at least one member of the Collegium of the Commission and based on the decision by the Chairperson of the Collegium of the Commission. The procedures for holding of and voting at the meetings of the Collegium of the Commission shall be established by the Regulations.

50. The package of documents and materials on each item on the draft agenda for the meetings of the Collegium of the Commission must be forwarded to the member States in compliance with the Regulations but not less than 30 calendar days before the meeting of the Collegium of the Commission.

51. The Chairperson of the Collegium of the Commission shall:

1) arrange the work of the Collegium of the Commission and be responsible for the performance of its functions;

2) draft, according to the established procedure, plans for the meetings of the Collegium of the Commission and the Council of the Commission for a next period, as well as agendas for the meetings of the Collegium of the Commission, the Council of the Commission, and the Supreme Council and the Intergovernmental Council that shall be approved at the meeting of the Council of the Commission and be forwarded together with all the necessary materials to the member States not less than 20 calendar days before the meeting;

3) report to the Council of the Commission, the Intergovernmental Council and to the Supreme Council on issues to be solved and on other documents provided with respective suggestions based on the results of considering such issues by the Collegium of the Commission;

4) establish the operating procedure for the departments of the Commission and determine issues within the scope of the departments of the Commission;

5) arrange work on preparing the meetings of the Collegium of the Commission, the Council of the Commission, the Intergovernmental Council and the Supreme Council;

6) preside over the meetings of the Collegium of the Commission;

7) participate in the meetings of the Council of the Commission;

8) represent the Collegium of the Commission in the Council of the Commission;

9) submit to the Council of the Commission proposals on assigning departments of the Commission to members of the Collegium of the Commission by agreement with the members of the Collegium of the Commission;

10) set the procedure for interacting with mass media and rules for public speaking of the employees of the departments of the Commission and for delivery of confidential information;

11) on behalf of the Commission administer budget of the EAEU, act as a holder of the budget of the Commission, dispose material assets of the Commission, conclude civil agreements and present the Commission in the court;

12) appoint directors and deputy directors of the departments of the Commission according to the results of competitions for posts;

13) on behalf of the Commission enter into labor agreements (contracts) with employees of the departments of the Commission;

14) approve the regulations on the departments of the Commission;

15) appoint an interim Chairperson of the Collegium of the Commission from among the members of the Collegium of the Commission;

16) exercise the powers of the employer representative in relation to directors and deputy directors of the departments of the Commission, in particular, approving job descriptions and vacation schedules, granting vacations, and regulating business trips;

17) provide verification of facts set forth in a request for recalling a member of the Collegium of the Commission on the grounds specified items 35-37 of the present Protocol in compliance with the procedure approved by the Council of the Commission;

18) exercise other functions needed for the operation of the Collegium of the Commission and departments of the Commission in compliance with the Regulations.

52. According to the distribution of official duties, a member of the Collegium of the Commission shall:

1) prepare proposals on the issues within his/her competence;

2) reports on issues within his/her competence at the meetings of the Collegium of the Commission and the Council of the Commission;

3) coordinate and monitor the work of the supervised departments of the Commission;

4) draft decisions, instructions and recommendations for the Collegium of the Commission on issues within his/her competence;

5) monitor the implementation of international treaties of the EAEU on issues within his/her competence;

6) monitor the implementation of the Commission's decisions by the member States within his/her competence;

7) draft written expert opinions on proposals submitted by the member States to the Commission within his/her competence;

8) interact, within the powers of the Collegium of the Commission, with government authorities of the member States on issues within his/her competence (including requesting information needed for exercising his/her powers from government authorities of the member States, legal entities, and natural persons);

9) provide, within his/her competency, drafting of international treaties, decisions, instructions and recommendations of the Commission to be approved by the Council of the Commission, and other documents needed for the Commission to exercise its powers;

10) ensure according to the established order participation of the supervised departments in regulatory assessment procedures;

11) submit to the Collegium of the Commission proposals within his/her competence on the formation of consultative bodies under the Collegium of the Commission.

53. Issues on provision of employees of the Collegium of the Commission with privileges and immunities, social guarantees as well as issues on employment relations, social and pension benefits shall be specified by the Protocol on the Privileges and Immunities of the Eurasian Economic Union (Annex 32 to the Treaty).

#### IV. Departments of the Commission

54. The activities of the Council of the Commission and the Collegium of the Commission shall be provided by the departments of the Commission.

The staff of the departments of the Commission shall consist of the Commission employees.

Procedure of employment of officials and employees of the Commission shall be established in accordance with Article 9 of the Treaty.

Directors and deputy directors of the departments of the Commission shall be appointed on a competition basis by the Chairperson of the Collegium of the Commission for a period of 4 years.

The directors and deputy directors of the departments of the Commission being employed shall meet the following requirements:

have the citizenship of one of the member States;

have professional training (qualification) and at least a 5 year period of service in the field corresponding to their official duties.

The departments of the Commission shall be staffed on a competition basis by citizens of the member States meeting respective qualification requirements as to the posts to be held and being approved by the Council of the Commission.

The Commission employees shall be employed under employment agreements (contracts) entered into with the Chairperson of the Collegium of the Commission.

The procedures for concluding, extending and terminating an employment agreement (contract) shall be approved by the Council of the Commission.

Candidates may be required to comply with additional requirements specified during the competition.

Members of the Commission shall be required to comply with attestation procedures according to the order approved by the Council of the Commission.

55. The departments of the Commission shall exercise the following functions:

1) prepare materials, draft decisions, instructions and recommendations on issues of establishing and functioning of the EAEU (including proposals on entering into and amending international treaties) to be considered by the Collegium of the Commission;

2) monitor the compliance of the member States with provisions of international treaties constituting the legal basis of the EAEU, decisions and instructions of the Collegium of the Commission, the Council of the Commission, the Intergovernmental Council and the Supreme Council in order to submit the results for consideration by the members of the Collegium of the Commission;

3) prepare proposals for consideration by the members of the Collegium of the Commission on the results of monitoring and analyzing the legislation of member State in the fields governed by legislation of the EAEU;

4) draft international treaties and other documents required for the formation and functioning of the EAEU;

- 5) interact with state authorities of the member States;
- 6) draft the budget of the EAEU and report on its implementations, draft the budget estimate of the Commission and ensure its implementation;
- 7) ensure the functioning of the Commission as a depository for international treaties entered into within the framework of the EAEU;
- 8) participate according to the established order in procedure of regulatory assessment and monitor conduct of such procedure;
- 9) exercise other functions specified by international treaties constituting the contractual legal basis for the EAEU and by decisions of the Supreme Council, the Intergovernmental Council and the Commission (including those aimed at arranging their work and providing information and technical support to the activities of the Commission).

56. Officials and employees of the Commission shall be international civil servants.

In discharging their official duties, officials and employees of the Commission shall not depend on state bodies and officials of the member States and shall not request for or receive instructions from the authorities or officials of the member States.

Each member State shall respect status of the officials and employees of the Commission and shall not influence the employees discharging their official duties.

Throughout the term of their powers, officials and employees working in the Commission shall have no right to combine such work with another one or engage in other remunerated activities with the exception of teaching, scientific, or other creative activities.

57. The members of the Collegium of the Commission and the employees of the departments of the Commission shall annually file with the Commission information on their income, assets, and estate liability, as well as on income, assets, and estate liability of members of their families, when and as required by the Council of the Commission.

58. The information on income, assets, and estate liability filed by the members of the Collegium of the Commission and by the employees of the departments of the Commission as per the present protocol shall be confidential.

59. Persons guilty of disclosing any information specified in point 57 and 58 of the present Protocol shall be held liable under the legislation of each member State.

60. The accuracy and completion of information specified in point 57 and 58 of the present Protocol shall be checked according to the procedure approved by the Intergovernmental Council.

61. The members of the Collegium of the Commission and employees of the departments of the Commission shall take measures to settle or prevent any conflict of interest that might be caused by personal interest of a member of the Collegium of the Commission and an employee of a department of the Commission.

62. Issues on provision of officials and employees of the Commission with privileges and immunities, social guarantees as well as issues on employment relations, social and pension benefits shall be specified by the Protocol on the Privileges and Immunities of the Eurasian Economic Union (Annex 32 to the Treaty).

ANNEX 2  
to the Treaty on the  
Eurasian Economic Union

STATUTE  
of the Court of the Eurasian Economic Union

I. General Provisions. Legal Status of the Court.

1. Court of the Eurasian Economic Union (hereinafter – Court) shall be a judicial body of the Eurasian Economic Union (hereinafter – EAEU), established and acting on a permanent basis in accordance with the Treaty on the Eurasian Economic Union (hereinafter – the Treaty) and this Statute.

2. The purpose of the Court's activity shall be to ensure a uniform application of the Treaty, international treaties within the EAEU, international treaties between the EAEU and third party and decisions of the EAEU's bodies by the member States and bodies of the EAEU, in accordance with the provisions of this Statute.

For the purposes of this Statute EAEU's bodies shall be deemed as EAEU's bodies, except the Court.

3. The Court shall enjoy the rights of a legal entity.

4. The Court shall keep its documentation, have a seal and blanks with its name, create its own official website in the Internet and official bulletin.

5. The Court shall develop proposals for funding its activity and manage the funds allocated for its maintenance, in accordance with the Provision on the budget of the EAEU.

6. Conditions of labour remuneration of judges, officials and employees shall be determined by the Supreme Council.

II. Composition of the Court



7. The Court shall be composed of 2 judges from each member State.

8. Term of powers of judge – 9 years.

9. Judges shall have strong moral qualities, be highly qualified specialists in international law and national legislation of the member States, and also, as a rule, satisfy the requirements for judges of supreme judicial bodies of the member States.

10. Judges shall be appointed by the Supreme Council on the proposal of the member States. At the moment of entrance upon his/her duties judge shall make an oath.

11. Judges shall be discharged from their duties by the Supreme Council.

12. Powers of judge may be terminated on the following grounds:

1) termination of activity of the Court;

2) expiration of term of the office of judge;

3) written application of judge on resignation in connection with his transfer to another job or on any other reason;

4) failure to exercise duties of judge for health reasons or any other reasonable excuse;

5) conducting activity incompatible with the duties of judge;

6) termination of membership in the EAEU of the state by which the judge was proposed;

7) loss by judge of citizenship of the member State by which the judge was proposed;

8) commitment by judge of serious offence that is incompatible with the high status of judge;

9) entry into force of judgment of guilt against the judge or court decision on application of compulsory medical measures to him/her;

10) entry into force of court decision on disability or on recognition of incapacity of the judge;

11) death of the judge or entry into force of court decision declaring him/her dead or missing.

13. Member State by which the judge was proposed, the Court or the judge himself/herself may initiate termination of powers of the judge on the grounds provided by the paragraph 12 of this Statute

Issues on initiative to terminate powers of judge shall be determined by the Regulations of the Court of Eurasian Economic Union, which shall be approved by the Supreme Council (hereinafter – Regulations).

14. Management of the activity of the Court shall be exercised by Chairman of the Court. The Chairman of the Court shall have a deputy.

If participation of the Chairman of the Court in activity of the Court is impossible, his obligations shall be performed by deputy of the Chairman of the Court.

15. Chairman of the Court and his deputy shall be elected to the positions from the composition of the Court by judges of the Court in accordance with the Regulations and approved by the Supreme Council.

Chairman of the Court and his deputy cannot be citizens of the same member State.

Upon termination of powers Chairman of the Court and his deputy shall be elected from the number of judges, proposed by other member States than those that proposed the preceding Chairman of the Court and his deputy respectively.

16. Chairman of the Court and his deputy shall exercise their powers within 3 years.

17. Chairman of the Court shall:

- 1) approve procedure of organization and activity of the Court and judges;
- 2) organize activity of the Court;
- 3) within his/her powers ensure interaction of the Court and authorized bodies of the member States, foreign and international judicial bodies;
- 4) according to the procedures provided by the Statute appoint employees and officials of the Court and dismiss them from the office;
- 5) organize provision of information on Court's activity to the mass media;
- 6) exercise other powers in accordance with this Statute.

18. Judges shall not be able to represent interests of state or interstate bodies and organizations, commercial structures, political parties and movements as well as territories, nations, nationalities, social and religious groups and individuals.

Judges shall not be able to engage in any activity related to receipt of income, except for scientific, creative and teaching activities.

19. Judge shall not be able to participate in any case, in which he/she earlier participated as representative, attorney or advocate of one of the disputing parties, member of national or international court, commission of inquiry or in any other capacity.

20. Judges shall be equal in administration of justice and have an equal status. Chairman of the Court and its deputy shall not be entitled to take actions aimed at obtaining any undue advantage in comparison with other judges.

21. Judge while performing his/her powers as well as in outside-of-duty relationships shall avoid conflict of interests, and everything that may diminish the authority of judicial power, dignity of judge or raise doubts in his/her objectivity, fairness and impartiality.

### III. Court Administration. Status of Officials and Employees.

22. Administration of the Court shall provide activity of the Court.

23. Structure of administration of the Court shall include Secretariats of judges and Secretariat of the Court.

24. The Secretariat of judge shall be composed of judge advisor and judge assistant.

25. Legal, organizational, logistic and other maintenance of activity of the Court shall be implemented by the Secretariat of the Court.

26. Structure and number of the Secretariat of the Court shall be approved by the Supreme Council.

27. The Secretariat of the Court shall be headed by the head of the Secretariat of the Court, which shall have two deputies. Head of the Secretariat of the Court and his deputies shall be officials of the Court and shall be appointed and dismissed in accordance

with this Statute and the Treaty. Head of the Secretariat of the Court and his/her deputies cannot be citizens of the same member State.

28. Labour relations shall be regulated by the Treaty, applicable international treaties within the EAEU and legislation of the state of residence of the Court.

29. Advisor of judge shall be an official of the Court, which shall be appointed and dismissed by Chairman of the Court on the proposal of respective judge.

30. Advisor of judge shall exercise information and analytical support to activity of judge.

31. Advisor of judge shall have strong moral qualities, be highly qualified specialist in the field of international law and (or) foreign economic activity.

32. Assistant of judge shall be an employee of the Court, appointed and dismissed by Chairman of the Court on proposal of relevant judge.

33. Assistant of judge shall provide organizational support to activity of judge.

34. Selection of candidates for positions of Heads of the Secretariat and his/her deputies shall be performed on a competitive basis by competitive commission based on principle of equal representation of the member States.

Candidates for participation in competition for such positions shall be proposed by the member States.

35. Secretariat of the Court shall be composed on the competitive basis from the number of citizens of the member States taking into account equity participation of the member States in the budget of the EAEU.

Employees of the Secretariat of the Court shall be recruited on the basis of concluded labour agreements (contracts).

36. Competitive commission of the Court shall be composed of all judges of the Court, except Chairman of the Court.

Members of the competitive commission shall elect a chairman of competitive commission.

Competitive commission shall adopt decisions in the form of recommendations by majority of votes and propose them to Chairman of the Court for adoption of decision on appointment.

37. Procedure of competition for vacant posts in the Secretariat of the Court shall be determined by the Court and approved by Chairman of the Court in accordance with the main rules of competition procedure, determined by the Supreme Council.

38. Technical staff of the Secretariat of the Court shall be recruited by the head of the Secretariat of the Court on the basis of labour agreements (contracts) concluded with them.

#### IV. Court Jurisdiction

39. The Court shall adjudicate disputes on the issues of implementation of the Treaty, international treaties within the EAEU and (or) decisions of the EAEU's bodies:

1) Upon application of the member State:

On compliance of international treaty within the EAEU or its individual provisions with the Treaty;

On compliance by the other member State (other member States) with the Treaty, international treaties within the EAEU and (or) decisions of bodies of the EAEU and individual provisions specified in international treaties and (or) decisions;

On compliance of decision of the Commission or its specific provisions with the Treaty, international treaties within the EAEU and (or) decisions of bodies of the EAEU;

On contestation of activity (inactivity) of the Commission;

2) Upon application of economic operator:

On compliance of decision of the Commission or its certain provisions, directly affecting rights and legitimate interests of economic operator in the field of entrepreneurial and other economic activity with the Treaty and (or) international treaties within the EAEU, if such decision or its certain provisions entailed violation of rights and legitimate interests of economic operator provided by the Treaty and (or) international treaties within the EAEU;

On contesting action (inaction) of the Commission, which directly affects rights and legitimate interests of economic operator in the field of entrepreneurial and other economic activity, if such action (inaction) entailed a violation of rights and legitimate

interests of economic operator, provided by the Treaty and (or) international treaties within the EAEU.

For the purposes of this Statute economic operator shall mean a legal entity registered according to the legislation of a member State or any third country, or individual, registered as an individual entrepreneur in accordance with the legislation of the member State or third country.

40. The member States may attribute to the competence of the Court other disputes, resolution of which by the Court shall be expressly provided by the Treaty, international treaties within the EAEU, international treaties of the EAEU with any third party or other international treaties of member States.

41. Issue on availability of Court's competence to resolve disputes shall be settled in the Court. The Court in determining whether it is competent to consider disputes shall be guided by the Treaty, international treaties within the EAEU and (or) international treaties of the EAEU with the third party.

42. Provision of EAEU's bodies with additional competence beyond that which is expressly provided by the Treaty and (or) international treaties within the EAEU, shall not be within the competence of the Court.

43. Dispute shall not be accepted for consideration of the Court without prior request of applicant to the member State or the Commission for resolving the issue in the pretrial order through consultations, negotiations and other ways provided by the Treaty and international treaties within the EAEU, except cases expressly provided by the Treaty.

44. If the member State or the Commission within 3 months from the date of receipt of request of applicant fails to take measures on settlement the issue in pretrial order, application on adjudication may be submitted to the Court.

45. By mutual consent of disputing parties, dispute may be submitted for consideration of the Court prior to expiration of the period specified in the paragraph 44 of this Statute.

46. On application of the member State or body of the EAEU, Court shall clarify provisions of the Treaty, international treaties within the EAEU and decisions of EAEU's bodies; as well as on application of employees and officials of the bodies of the EAEU and

the Court, the Court shall clarify provisions of the Treaty, international treaties within the EAEU and decisions of the bodies of the EAEU, related to labor relations (hereinafter – clarification).

47. Clarification by the Court shall mean provision of consultative conclusion and shall not divert the member States of right for their joint interpretation of international treaties.

48. The Court shall clarify provisions of international treaty of the EAEU with third party, if it is provided by such international treaty.

49. Appeal to the Court on behalf of the member State with application on consideration of dispute or clarification shall be made by authorized bodies and organizations of member State, list of which shall be determined by each member State and sent to the Court through diplomatic channels.

50. In the exercise of justice, the Court shall apply:

- 1) generally recognized principles and rules of international law;
- 2) Treaty, international treaties within the EAEU and other international treaties, participants of which are states - parties of dispute;
- 3) decisions and instructions of the EAEU's bodies;
- 4) international custom as evidence of general practice recognized as a principle of law.

51. Provisions of the Treaty, international treaties within the EAEU and international treaties of the EAEU with third party, concerning settlement of disputes, clarification and interpretation, shall be applied in part not contradictory to this Statute.

## V. Court procedure

### 1. Court Procedure on Disputes Settlement

52. Procedure for considering cases on disputes settlement in the Court shall be determined by the Regulations.

53. The Court shall exercise court procedure on the basis of the following principles:

independence of judges;  
publicity of judicial examination;  
publicity;  
equality of disputing parties;  
competitiveness;  
collegiality.

Procedure for implementing principles of judicial proceedings shall be determined by the Regulations.

54. Receipt of application to the Court in respect of any international treaty within the EAEU and (or) decision of the Commission shall not be a ground for suspension of such international treaty and (or) decision and (or) their certain provisions, except the cases when otherwise expressly provided by the Treaty.

55. The Court may request materials required for consideration of cases from economic operators, which directed application to the Court, authorized bodies and organizations of the member States and bodies of the EAEU.

56. Information of restricted distribution may be obtained by the Court or provided by the person participating in the case in accordance with the Treaty, international treaties within the EAEU, the Regulations and legislation of the member States. The Court shall take appropriate measures to ensure protection of such information.

57. Court procedure shall be implemented with the participation of disputing parties, applicant, their representatives, experts, including experts of specialized groups, professionals, witnesses and interpreters.

58. Persons involved in the case shall use procedural rights and bear procedural obligations in accordance with the Regulations.

59. Experts of specialized groups shall be provided with immunity from administrative, civil and criminal jurisdiction in respect of everything spoken or written due to their participation in the process on consideration of cases by the Court. These persons shall lose their immunity if they violate the order specified for use of information of restricted distribution defined in the Regulations.



60. If the member State or the Commission finds that decision in respect of dispute may affect their interests, such member State or the Commission may apply for permission to intervene as an interested party in the dispute.

61. The Court shall leave without consideration the claim for compensation or any other claims of property character.

62. Economic operator's appeal to the Court shall be subject to payment of judicial duty.

63. A duty shall be paid by economic operator before applying to the Court.

64. In case if the Court satisfies economic operator's requirements specified in the application, the duty shall be returned.

65. Amount, currency of payment, procedure of credit, use and return of the duty shall be determined by the Supreme Council.

66. In the course of hearing of a case each disputing party shall bear its legal costs independently.

67. At any stage of hearing of a case dispute may be settled by the disputing parties by entering into settlement agreement, the applicant's refusal from his claims or cancellation of application.

## 2. Court Procedure on Clarification

68. Procedure for hearing of cases on clarification shall be determined by the Regulations.

69. The Court shall perform court procedure on clarification on the basis of principles of independence and collegiality of judges.

## 3. Composition of the Court

70. The Court shall hear cases composed of Grand Collegium of the Court, Collegium of the Court and Appeals Chamber of Court.

71. The Court shall hear cases on dispute resolution at the meetings of the Grand Collegium of the Court in cases provided by the subparagraph 1 of the paragraph 39 of this Statute.

72. The Grand Collegium of the Court shall hear procedural issues provided by the Regulations.

73. The Court shall hear cases on clarification at the meetings of the Grand Collegium of the Court.

74. The Grand Collegium of the Court shall be composed of all judges of the Court.

75. Court meeting of the Grand Collegium of the Court shall be considered duly constituted meeting subject to attendance of all judges of the Court.

76. The Court shall meet as Collegium of the Court in the cases provided by the subparagraph 2 of the paragraph 39 of this Statute.

77. The composition of the Collegium of the Court shall be added with one judge from each member State alternately in Russian alphabetical order (by surname of judge).

78. Court meeting of the Collegium of the Court shall be considered duly constituted meeting subject to presence of one judge from each member State.

79. The Court shall meet as the Appeals Chamber of the Court for consideration of appeal applications for decisions of the Collegium of the Court.

80. The Appeals Chamber of the Court shall be composed of judges of the Court from the member States which did not participate in hearing of the case, decision on which of Collegium of the Court is appealed.

81. Court meeting of the Appeal Chamber of the Court shall be duly constituted meeting subject to presence of one judge from each member State.

## VI. Specialized Groups

82. When considering a particular dispute on industrial subsidies, measures of state support for agriculture, application of special safeguard, anti-dumping and countervailing measures, specialized group shall be created.

83. Specialized group shall be composed of three experts: one expert from list presented by each member State for the relevant type of dispute.

84. Composition of specialized group shall be approved by the Court.

85. After consideration of the case, specialized group shall be deactivated.

86. No later than 60 calendar days after the Treaty's entry into force, the member States shall send to the Court lists composed of no less than 3 experts on each type of dispute from those specified in the paragraph 82 of this Statute, which are willing and able to act as members of specialized groups.

The member States shall on a regular basis, but no less than once a year, update lists of experts.

87. Individuals who are highly qualified professionals with special knowledge and experience on the subject of disputes specified in the paragraph 82 of this Statute may act as experts.

88. Experts shall serve in their personal capacity, act independently and shall not be associated with any disputing party and may not obtain any instructions from them.

89. Expert cannot act as a member of specialized group in case of conflict of interests.

90. Specialized group shall prepare conclusion containing an objective assessment of facts of the case and submit it to the Court within the term specified by the Regulations.

91. Conclusion of specialized group shall have a recommendatory character, except for the case provided by the third paragraph of the paragraph 92 of this Statute and assessed by the Court in making its decisions, provided by the paragraphs 104-110 of this Statute.

92. Conclusion of specialized group prepared on the dispute related to industrial subsidies or measures of state support for agriculture shall contain a summary on existence or absence of violation as well as on application of appropriate compensatory measures in case of existence of violation.

With regard to summary of the specialized group on existence or absence of violation, conclusion of the specialized group shall have recommendatory character and

assessed by the Court in making one of the decisions, provided by the paragraphs 104-110 of this Statute.

With regard to summary on application of appropriate compensatory measures, conclusion of the specialized group shall be compulsory for the Court in making its decision.

93. Procedure on formation and activity of specialized groups shall be determined by the Regulations.

94. Procedure on payment for services of specialized groups shall be determined by the Supreme Council.

## VII. Judicial Acts

95. Within the period established by the Regulations, the Court shall adopt resolutions on the issues of the Court's activity, including the resolutions:

- 1) on acceptance or refusal to accept application for the proceedings;
- 2) on suspension or resumption of proceedings on the case;
- 3) on termination of proceedings on the case.

96. No later than 90 days from the date of receipt of application on the results of consideration of dispute, the Court shall make a decision and upon application on clarification shall provide advisory opinion.

97. Term for making a decision may be extended in the cases provided by the Regulations.

98. Advisory opinion shall have a recommendatory character.

99. Upon results of disputes consideration, provided by the subparagraph 1 of the paragraph 39 of this Statute, the Court shall make a decision compulsory for implementation by disputing parties.

100. Upon results of disputes consideration, provided by the subparagraph 2 of the paragraph 39 of this Statute, the Court shall make a decision which is compulsory for implementation by the Commission.

101. Decision of the Court shall not be beyond the scope of the issues specified in the application.

102. The Court's decision shall not change and (or) cancel existing provisions of the law of the EAEU, legislation of the member State and shall not create any new provisions.

103. Without prejudice to the provisions of the paragraphs 111-113 of this Statute, disputing parties shall independently determine the form and manner of enforcement of the Court decision.

104. Upon results of consideration of the case on application of the member State on compliance of international treaty within the EAEU or its specific provisions with the Treaty, the Grand Collegium of the Court shall make one of the following decisions:

1) on nonconformity of international treaty within the EAEU or its certain provisions with the Treaty;

2) on conformity of international treaty within the EAEU or its certain provisions with the Treaty.

105. Upon results of consideration of the case on application of the member State on observing by another member State (or other member States) of the Treaty, international treaties within the EAEU and (or) decisions of the EAEU's bodies, as well as certain provisions of specified international treaties and (or) decisions, the Grand Collegium of the Court shall make one of the following decisions:

1) to establish fact of observing by a member State (the member States) of the Treaty, international treaties within the EAEU and (or) decisions of the bodies of the EAEU, as well as certain provisions of international treaties and (or) decisions;

2) to establish fact of non-observance by a member State (the member States) of the Treaty, international treaties within the EAEU and (or) decisions of the bodies of the EAEU as well as certain provisions of specified international treaties and (or) decisions.

106. On results of consideration of the case on application of the member State on compliance of the Commission's decision or its certain provisions with the Treaty, international treaties within the EAEU and (or) decisions of the bodies of the EAEU the Grand Collegium of the Court shall make one of the following decisions:

1) on noncompliance of the Commission's decision or its certain provisions with the Treaty, international treaties within the EAEU and (or) decisions of the bodies of the EAEU;

2) on compliance of the Commission's decision or its certain provisions with the Treaty, international treaties within the EAEU and (or) decisions of bodies of the EAEU.

107. Upon results of consideration of the case on application of a member State on contesting action (inaction) of the Commission, the Grand Collegium of the Court shall make one of the following decisions:

1) to recognize contested action (inaction) as non-complying with the Treaty and (or) international treaties within the EAEU;

2) to recognize contested action (inaction) as complying with the Treaty and (or) international treaties within the EAEU;

108. Upon results of consideration of the case on application of economic operator on complying Commission's decision or its certain provisions, directly affecting rights and legitimate interests of economic operator in the field of entrepreneurial or any other economic activity, with the Treaty and international treaties within the EAEU, if such decision or its certain provisions entailed violation of rights and legitimate interests of economic operators that were provided by the Treaty and (or) international treaties within the EAEU, the Collegium of the Court shall make one of the following decisions:

1) to recognize decision of the Commission or its certain provisions as complying with the Treaty and (or) international treaties within the EAEU;

2) to recognize decision or its certain provisions as non-complying to the Treaty and (or) international treaties within the EAEU.

109. Upon results of consideration of the case upon application of economic operator about contesting action (inaction) of the Commission, the Collegium of the Court shall make one of the following decisions:

1) to recognize contested action (inaction) as non-complying with the Treaty and (or) international treaties within the EAEU and violating rights and legitimate interests of economic operator in the field of entrepreneurial or any other economic activity;

2) to recognize contested action (inaction) of the Commission as complying with the Treaty and (or) international treaties within the EAEU and not violating rights and legitimate interests of economic operator in the field of entrepreneurial or any other economic activity.

110. Upon results of consideration of the case on application of economic operator to appeal decision of the Collegium of the Court, the Appeal Chamber of the Court shall make one of the following decisions:

1) to leave the decision of the Collegium of the Court unchanged, and application on appeal without consideration;

2) to abolish in whole or in part or to change decision of the Collegium of the Court, to adopt a new decision on the case in accordance with the paragraphs 108 and 109 of this Statute.

111. Validity of the Commission's decision or its certain provisions, which the Court recognized as not complying with the Treaty and (or) international treaties within the EAEU, shall be continued after the entry into force of the relevant decision of the Court before fulfilment this Court's decision by the Commission.

The Commission's decision or its certain provisions recognized by the Court as not complying with the Treaty and (or) international treaties within the EAEU, within the reasonable term, but not exceeding 60 calendar days from the moment of entry into force of the Court's decision, shall be brought by the Commission into compliance with the Treaty and (or) international treaties within the EAEU unless any other term is established in the decision of the Court.

The Court in its decision, taking into account the provisions of the Treaty and (or) international treaties within the EAEU, may determine any other term for bringing of the Commission's decision into compliance with the Treaty and (or) international treaties within the EAEU.

112. If there is a reasonable application of disputing party, validity of Commission's decision or its certain provisions, that the Court recognized as not complying with the Treaty and (or) international treaties within the EAEU, may be suspended by decision of the Court from the date of its entry into force.

113. Within a reasonable time period but not exceeding 60 calendar days from the date of the Court's decision entry into force, unless any other term is determined in the Court's decision, the Commission shall implement the Court's decision which has entered into force, where the Court established that contested action (inaction) of the Commission is not complying with the Treaty and (or) international treaties within the EAEU and that the Commission by such action (inaction) violated rights and legitimate interests of economic operators in the field of entrepreneurial and any other activity, provided by the Treaty and (or) international treaties within the EAEU.

114. In case of nonperformance of the Court's decision, the member State may apply to the Supreme Council for adopting required measures for ensuring its performance.

115. In case of nonperformance of Court's decision by the Commission, economic operator can make an application to the Court for taking appropriate measures for its performance.

On application of economic operator, within 15 calendar days from the moment of its receipt, the Court shall apply to the Supreme Council for acceptance of decision on this issue.

116. Acts of the Court shall be published in the official bulletin of the Court and in the official website of the Court in the Internet.

117. The Court's decision may be clarified without changing its essence and content only by the Court upon reasonable application of the parties of the case.

## VIII. Final provisions

118. Judges, officials, employees of the Court, persons involved in the case, experts of specialized groups shall not disclose and transfer to the third parties information, which they obtained during the case consideration, without prior written consent of the person, which submitted such information.

119. Procedure of use and protection of information of restricted distribution shall be determined by the Regulations.

120. The Court shall annually file a report on its activity to the Supreme Council.



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ANNEX 3  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L  
on Information And Communication Technologies And Information Interaction within the  
Eurasian Economic Union

1. This Protocol is developed in accordance with the article 23 of the Eurasian Economic Union Treaty (hereinafter - EAEU Treaty) in order to determine fundamental principles of information interaction and coordination of its realization within the EAEU, as well as to determine procedure of creation and development of integrated information system.

2. Definitions used in this Protocol shall mean the following:

“paper copy of electronic document” is a copy of electronic document on paper, certified in accordance with the legislation of the member States ;

“trusted third party” is an organization which in accordance with the legislation of the member States is endowed with the right to perform activity on verification of electronic digital signature (electronic signature) in electronic documents at a fixed time in respect of originator and (or) addressee of electronic document;

“Customer of national segment of a member State” is a state authority of a member State, which perform functions of customer and organizer of works on creation, development and operating of national segment of the member State, determined in accordance with the legislation of the member State;

“protection of information” is acceptance and realization of a set of legal, organizational and technical measures for determining, achievement and maintenance of confidentiality, integrity and availability of information and means of its processing in order to exclude or minimize unacceptable risks for subjects of informational interaction;

“integrated information system of the EAEU” is an organizational set of geographically distributed state informational resources and information systems of authorized bodies, information resources and information systems of the Commission, united by national segments of the member States and integration segment of the Commission;

“Information system” is a set of information technologies and technical means providing processing of information resources;

“information and communicative technologies” is a set of methods and means for realization of information technologies and telecommunication processes;

“information technologies” are processes, methods of search, collection, accumulation, systematization, storage, clarification, processing, supply, distribution and disposal (destruction) of information as well as ways of implementation of such processes and methods;

“information resource” is an ordered set of documented information (databases, other information arrays) contained in information systems;

“classifier” is a systematic, structured and codified list of names of classification objects;

“national segment of a member State”, “integrated segment of the Commission” are information systems, which provide information interaction of information systems of authorized bodies and information systems of the Commission within the integrated information system of the EAEU”;

“normative-reference information” is a set of directories and classifiers used in implementation of information exchange between authorized bodies;

“general infrastructure for documenting of information in electronic form” is a set of informational and technological and organizational and legal measures, rules and decisions, realized in the form of geographically distributed sets of services, provided by operators in order to give legal effect to electronic documents within the EAEU;

“general informational resource” is information resource of the Commission, formed by centralized maintenance or on the basis of information interaction between the member States;

“general process within the EAEU” is operations and procedures, regulated (set) between international agreements and acts, which constitute the EAEU law and legislation of the member States, which are started in the territory of one of the member States and ended (changed) in the territory of any other member State;

“manual” is a systemized, structured and codified list of information uniform in its content or essence;

“subjects of electronic interaction” are state bodies, individuals or legal entities, which interact within relations arising in the process of drafting, sending, transmitting, obtaining, storage and application of electronic documents as well as information in electronic form;

“transboundary space of trust” is a set of legal, organizational and technical conditions, agreed by the member States in order to ensure trust in the interstate exchange of data and electronic documents between authorized bodies.

“unified system of classification and coding of information” is a set of manuals, classifiers of normative-reference information as well as procedure of methodology of their development, keeping and use”;

“authorized body” is a state body of a member State or organization determined by it, empowered to implement state policy in certain fields;

“accounting system” is an information system containing information from title documents of subjects of electronic interaction and with use of which legally relevant electronic documents shall be issued;

“electronic form of interaction” is a method of informational interaction based on application of information and communication technologies;

“electronic type of document” is information, data presented in a form suitable for human perception with the use of electronic computers, and for transmission and processing with use of information and communicative technologies with observance of specified requirements to format and structure;

“electronic document” is a document in electronic form, certified by electronic digital signature (electronic signature) in accordance with a common infrastructure for documenting of information in electronic form.

3. On the basis of expanded functional abilities of integrated informational system of foreign and mutual trade in the EAEU, it is required to perform works on establishing, operation and development of integrated informational system of the EAEU (hereinafter – integrated system), which provide informational support on the following issues:

- 1) customs tariff and non-tariff regulation;
- 2) customs regulation;
- 3) technical regulation, application of sanitary, veterinary and sanitary and quarantine phytosanitary measures;
- 4) credit and distribution of import customs duties;
- 5) credit and distribution of anti-dumping and countervailing duties;
- 6) statistics;
- 7) competitive policy;
- 8) energy policy;
- 9) monetary policy;
- 10) protection and enforcement of intellectual activity and means of individualization of goods, works and services;
- 11) financial markets (banking sector, sector of insurance, monetary market, securities market);
- 12) maintenance of activity of the EAEU authorities;
- 13) macroeconomic policy;
- 14) industrial and agricultural policy;
- 15) circulation of drugs and medical products;
- 16) other issues within the powers of the EAEU (included in the scope of integrated system in the process of its development).

4. The main tasks of formation of integrated system are:

- 1) creation and maintenance of uniform system of normative and reference information of the EAEU on the basis of uniform system of classification and coding;
- 2) establishment of integrated informational structure of interstate exchange of data and electronic documents within the EAEU;
- 3) creating common informational resources for the member States ;

4) ensuring informational interaction based on the provisions of the EAEU Treaty on ensuring formation of common informational resources, informational support for authorized bodies exercising state control and implementation of common processes within the EAEU;

5) providing access to the texts of international agreements and acts constituting the EAEU law, and draft international agreements and acts constituting the EAEU law as well as for common informational resources and informational resources of the member States;

6) establishment and maintenance of common infrastructure of documenting of information in electronic form.

5. It is required to form within the integrated system common informational resources containing:

1) legislative and other normative legal acts of the member States, international agreements and acts constituting the EAEU law;

2) normative and reference information, formed by centralized maintaining database or on the basis of informational interaction of the member States;

3) registers formed on the basis of informational interaction of the member States and the Commission;

4) official statistic information;

5) information and methodical, scientific, technical and other informational and analytical materials of the member States;

6) other information included in the common information resources due to development of integrated system.

6. When forming an integrated system the member States shall proceed from the following principles:

1) community of interests and mutual benefit;

2) use of common methodological approaches to preparing information for an integrated system based on a common data model;

3) availability, reliability and completeness of information;

4) timely provision of information;

5) compliance with the level of modern informational technologies;

6) integration with the information systems of the member States;

7) ensuring equal access of the member States for informational resources contained in integrated system;

8) use of provided information only for the declared purposes without prejudice to the member State that provided it;

9) openness of the integrated system for all categories of users subject to compliance with the requirement for use of information in accordance with the stated objectives;

10) implementation of information exchange on a non-repayable basis between the authorized bodies, the authorized bodies and the Commission using the integrated system.

7. Structure and content of manuals and classifiers included in regulatory and reference information in accordance with the EAEU Treaty and international agreements within the EAEU, shall be determined by the Commission by agreement with authorized bodies.

8. When forming an integrated system, the member States shall be guided by international standards and recommendations.

9. In order to create common information resources, ensure realization of common processes within the EAEU and effective implementation of various types of state control using means of integrated system, it is necessary to ensure electronic form of interaction between authorized bodies, authorized bodies and the Commission and between the Commission and integration associations, international organizations. List of common processes within the EAEU, technology of realization of common processes within the EAEU, procedure and regulation for sending and receipt of messages (requests) in a process of interaction, requirements for electronic form of documents (electronic documents) shall be determined by the Commission in the manner specified by the EAEU Treaty.

10. List of information provided in electronic form in a process of interaction shall be determined by the EAEU Treaty and international agreements within the EAEU.

11. In order to create equal conditions for business entities and individuals on submitting information to authorized bodies, coordinated development of electronic forms of interaction between authorized bodies, business entities and individuals, the

Commission may determine for the stated types of interaction standard uniform requirements within the EAEU for electronic type of documents (electronic documents), for order of sending and receiving messages (requests) in the process of interaction or recommend them for application.

12. In electronic form of interaction with the use of electronic documents as well as in processing them in information systems, it is necessary to observe the following principles:

1) If in accordance with the legislation of a member State it is required that the document was executed on the paper, then electronic document executed according to the rules of documenting, approved by the Council of Commission, shall be considered as corresponding to these rules;

2) electronic document executed according to the rules of documenting, approved by the Council of Commission, shall be recognized equal in legal force to the similar document on paper, certified by signature or signature and a seal;

3) document shall not be invalidated merely on the ground that it is executed in the form of electronic document;

4) while extracting information from electronic documents, including while converting formats and structures in order to process them in informational systems it is necessary to ensure their identity to similar information specified in electronic documents;

5) in the cases provided by international agreements and acts that constitute the EAEU law or by legislation of the member States with a use of accounting system, formation of paper copies of electronic documents may be ensured.

13. Development of transboundary space of trust shall be implemented by the Commission and the member States in accordance with the strategy and concept of use electronic documents and services that have legal force in international information interaction.

14. Common infrastructure of documenting of information in electronic form shall be composed of state components and integration component.

15. The Commission shall act as operator of integration component of common infrastructure of documenting of information in electronic form.



16. Authorized bodies and organizations determined by them in accordance with the legislation of a member State shall act as operators of state components of common infrastructure of documenting of information in electronic form.

17. Integration component of common infrastructure of documenting of information in electronic form shall ensure implementation of transboundary electronic document circulation on the basis of uniform standards and infrastructural decisions.

18. Requirements for creation, development and functioning transboundary space of trust shall be developed by the Commission in interaction with authorized bodies and approved by the Commission. Verification of components of common infrastructure of documenting of information in electronic form for compliance with specified requirements shall be performed by a commission formed from representatives of the member States and the Commission. Provisions on commission that include order of its formation shall be determined by the Council of Commission.

19. Information exchange of electronic documents between subjects of electronic interaction that have different mechanisms of electronic documents protection, shall be ensures with use of services provided by operators of common infrastructure of documenting of information in electronic form, including services of trusted third party.

20. The trusted third party's services shall be provided by the member States and the Commission. Authorized bodies or organizations determined (accredited) by them, shall be operators of services of the trusted third party of the member States. The Commission is an operator of services of trusted third party of the Commission. The member States shall provide subjects of electronic interaction with right to use services of trusted third parties.

21. The main tasks of the trusted third party are:

1) legalization (authentication) of electronic documents, messages and electronic digital signatures (electronic signatures) of the subjects of information interaction at a fixed time;

2) guaranteeing trust in international (transboundary) exchange of electronic documents and messages;

3) ensuring legality of using electronic digital signatures (electronic signatures) in outgoing and (or) incoming electronic documents and messages in accordance with the legislation of the member States and acts of the Commission.

22. Procedure of management and application of informational resources within the accounting system shall be determined by legislation of the member States.

23. The main objectives of the Commission in respect of ensuring electronic form of interaction with use of electronic documents shall be:

1) ensuring mutually acceptable for the member States level of information security in the integration segment of the Commission;

2) development of solutions to protect information in accounting systems and general infrastructure for documenting of information in electronic form, including the means of access for subject of informational interaction;

3) determining composition of components of common infrastructure of documenting of information in electronic form on the basis of international standards of the member States, international standards and recommendations;

4) coordination of development and testing of standard information technology solutions and software and hardware complexes within the common infrastructure of documenting of information in electronic form;

5) coordinating on development of rules of documenting of information in electronic form, regulations of work of individual components and services of common infrastructure of documenting of information in electronic form as well as recommendations on their application for subjects of electronic interaction;

6) preparing recommendations for harmonization of legislation of the member States in application of electronic documents in process of informational interaction within the EAEU as well as unification of interfaces of informational interaction between accounting systems;

7) coordination of interaction of the member States with the Third Countries on certain issues of formation of transboundary space of trust.

24. The member States shall ensure protection of information contained in informational resources, informational systems and information and telecommunication

networks of authorized bodies in accordance with the requirements of legislation of the member States.

25. Exchange of information that the legislation classified as state secret (state secrets) or information of restricted distribution (access) shall be performed in compliance with requirements of legislation of the member States for their protection.

26. Procedure for exchange of information containing data classified in accordance with the legislation of the member States as state secret (state secrets) or information of restricted distribution (access), shall established by international agreements within the EAEU.

27. Establishing integrated system shall be coordinated by the Commission which ensures its functioning and development in interaction with customers of national segments of the member States taking into account strategies of development of integrated system, developed and approved by the Council of Commission. Works on creation and development of integrated system shall be performed on the basis of plans (with an indication of duration and cost of work on creation and development of integration segment of the Commission), developed by the Commission in interaction with authorized bodies and approved by the Council of Commission.

28. The Commission shall exercise rights and obligations of owner in respect of such components of integrated system as integration segment of the Commission, information resources and information systems of the Commission, and organize their designing, development, implementation, acceptance of work results and further support.

29. The Commission shall exercise orders (purchases) of goods (works, services), assessment of competitive bids submitted in exercising orders (purchases) of goods (works, services) and acquisition of property rights with respect to components of integrated system, specified in the paragraph 28 of this Protocol.

30. In order to unify applicable organizational and technical solutions in creation, development and operation of segments of integrated system, maintenance of appropriate level of protection of information, the Commission shall coordinate development of drafts of technical, technological, methodological and organizational documents and approve them.

31. Member State shall determine a customer of national segment of member State which executes rights and obligations on its creation, maintenance of functioning and development.

32. The member States shall have equal rights to use the integrated system.

33. Financing of works on creation, development and maintenance functioning of components of integrated system specified in the paragraph 28 of this Protocol, shall be provided from the budget of the EAEU, at this in respect of works on their creation and development – based on the volumes required for realization of plans specified in the paragraph 27 of this Protocol.

34. Financing of works on creation, development and maintenance of functioning of state informational resources and informational systems of authorized bodies, as well as national segments of the member States shall be provided from budgets of the member States envisages for support of authorized bodies' activity.

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P R O T O C O L  
on Procedure of Formation And Distribution of Official Statistical Information of the  
Eurasian Economic Union

1. This Protocol is developed in accordance with the article 24 of the Eurasian Economic Union Treaty in order to determine the order of formation and distribution of official statistical information of the EAEU.

2. Definitions used in this Protocol shall have the following meanings:

“official statistical information of the member States” is a statistical information formed by authorized bodies of the member States within national statistical works programs and (or) in accordance with legislation of the member States;

“official statistical information of the EAEU” is a statistical information formed by the Commission on the basis of official statistical information of the member States, official statistical information of international organizations and other information from sources not prohibited by legislation;

“authorized bodies” are state bodies of the member States and national (central) banks, which are assigned with functions to form official statistical information of the member States.

3. In order to provide the member States and the Commission with official statistical information on goods transported between the member States in implementing mutual trade, the authorized bodies shall keep statistics of mutual trade with other member States.

4. Statistics of mutual trade in goods shall be conducted in accordance with methodology approved by the Commission.

5. Authorized bodies shall provide the Commission with official statistical information of the member States in accordance with a list of statistical indicators.

6. The list of statistical indicators, formats and term for submitting official statistical information of the member States shall be approved by the Commission upon agreement with authorized bodies.

7. The Commission may request from authorized bodies other official statistical information of the member States, which is not included in the list of statistical indicators.

8. Authorized bodies shall take measures to ensure completeness, accuracy and timeliness of providing official statistic information of the member States by the Commission, inform the Commission about impossibility to provide official statistical information of the member States in a timely manner.

9. The provisions of this Protocol shall not apply to official statistical information of the member States, which is classified as state secret (state secrets) or information of restricted distribution (access) in accordance with the legislation of the member States.

10. The Commission shall collect, accumulate, systemize, analyze and distribute official statistical information of the EAEU, provide specified information upon requests of authorized bodies and coordinate informational and methodological interaction of authorized bodies in the field of statistics within this Protocol.

11. Methodology of formation of official statistical information of the EAEU on the basis of official statistical information of the member States provided by authorized bodies shall be developed and approved by the Commission

12. In order to ensure comparability of official statistical information of the member States, the Commission shall accept relevant recommendations on authorized bodies' application of uniform internationally comparable standards that include classifications and methodology.

13. Official statistical information of the EAEU shall be distributed by the Commission in accordance with the program of statistical works approved by the Commission, by means of publication on the official website of the EAEU on the Internet.

14. Programs of integration development in the field of statistics shall be developed and approved by the Commission by agreement with authorized bodies.

ANNEX 5  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
of Enrollment And Distribution Procedure of Import Customs Duties (Other Duties, Taxes  
And Charges Having Equivalent Effect), Their Transfer to the Budgets of Member States

I. General Provisions

This Protocol has been developed in accordance with Article 26 of the EU Treaty and determines the computation and distribution procedures among the member States of the import customs duties, in which respect obligation to pay for the goods imported to the customs territory of the EU emerged on the 1st of September 2010

This Protocol shall also be applied in respect of late payment charges (interest) accrued on the import customs duties in the cases and manner prescribed in accordance with the customs legislation regulatory agreements and acts constituting EU rights.

2. Definitions used in this Protocol are as follows:

“joint account of authorized body” - an account opened for authorized body in the national (central) bank or an authorized body, which has correspondent account in the national (central) bank for computation and distribution of revenues between the budgets of this member State;

“accounting day” – business day of the member State for transfer of the import customs duties to a joint account of the authorized body;

“late charge” - the amount to be transferred by the member State to another member States’ accounts for violation of this Protocol provisions causing non-fulfillment, incomplete and (or) late fulfillment of the member State’s obligations on transfer of import customs duties distribution amounts;

“foreign currency account” - an account opened for the authorized body of a member State in the national (central) bank in the currency of another member State so that other member State could receive import customs duties distribution amount;

“current day” - a business day after accounting day of a member State when procedures on distribution of import customs duties amount are carried out for the accounting day;

“authorized body” - a government body of member State carrying out cash servicing of that member State budget.

Other terms used in this Protocol shall be applied in the definitions determined by the EU Treaty and Customs Code of the EU.

## II. Import Customs Duties Amount Computation and Distribution Procedure between Member States

3. Import custom duties amount shall be transferred in the national currency to the joint account of the member State’s authorized body where it is payable in accordance with the customs legislation regulatory agreements and acts constituting the EU rights, including collection of import duties.

Import duties are paid on a joint account of authorized body according to separate settlement (payment) documents (instructions).

Import custom duties may be counted against taxes and fees, as well as other payments (excluding special, antidumping and countervailing duties) payable in accordance with the legislation of the member State transferred to a joint account of the authorized body.

In accordance with Provision on computation and distribution of special protective, anti-dumping and countervailing duties (Appendix to the Appendix 8 to the EU Treaty) special anti-dumping and countervailing duties may be counted against debt repayment of taxpayers on import customs duties.

Return (offset) of the import customs duties amount shall be applied in accordance with the legislation of the member States, unless otherwise stipulated by the custom



legislation regulatory agreements and acts constituting EU rights, subject to the provisions of this Protocol.

Import custom duties amounts may not be counted against the payment of other fees, except against debt repayment of taxpayers on customs fees, special, antidumping and countervailing duties, as well as late charges (interest) (hereinafter – counted against debt repayment).

4. Funds held on a joint account of the authorized body cannot be recovered in an execution of judicial acts or otherwise, except for debt repayment of taxpayers on customs fees, special, antidumping and countervailing duties, as well as late charges (interest).

5. Authorized bodies of member States separately account the following revenues:

In payments (refunds, offset against debt repayment) of import custom duties on a joint account of the authorized body;

amounts of distributed import custom duties transferred to the foreign currency accounts of other member States;

amounts of income credited to the budget of the member State on distribution of the import custom duties of that member State;

amounts of import duties transferred to the budget of the member State by other member States;

late charges transferred to the budget of the member State established by this Protocol;

amounts of the import customs duties distribution, which transfer to the foreign currency accounts of other member States has been suspended.

Given amounts of income shall be separately reflected in the performance report of each member State.

6. Amounts of import customs duties transferred to the joint account of the authorized body of a member State for the last business day of the calendar year shall be reflected in the performance report of the member State for the financial year.

Amounts of distributed import duties for the last business day of the calendar year of the member States shall be transferred no later than on the second business day of the member States current year to the budget of that member State and to the foreign currency

accounts of other member States, and shall be also reflected in the performance report for the financial year.

Amount of income from import customs duties distribution transferred to the member State budget of the authorized body by other member States for the last business day of the calendar year of other member States shall be reflected in the performance report for the current year.

7. Refund of import customs duties amounts to the taxpayer, it shall be counted against debt repayment transferred from the authorized body account in the current day within the amounts of import customs duties received on a joint account of the authorized body and counted against import customs duties payment for the accounting day, taking into account the amount of the refunded import custom duties failed to be executed by the national (central) bank during the accounting day.

Refund of import customs duties amounts to the taxpayer shall be counted against debt repayment transferred from a joint account of the authorized body of the Republic of Kazakhstan during the accounting day within the amounts of import customs duties received (credited) to the joint account of the authorized body on the day of return (offset).

8. Import customs duties to be returned and (or) counted against debt repayment during the current day prior to the distribution of the received import customs duties between member States.

9. In case of insufficient funds to refund the import customs duties and (or) to be counted against debt repayment in accordance with paragraph 7 of this Protocol, it shall be refunded (offset) by member State during the following business days.

Late charges (interests) for the late refund to the payer of import customs duties amounts shall be paid to the payer from the budget of that member State and shall not be included to the amount of import custom duties.

10. Import customs duties shall be distributed by the authorized body of a member State between member States on the next business day of a member State after the accounting day when import customs duties have been transferred to the account of the authorized body.

Import customs duties amounts shall be distributed by the authorized body of the Republic of Kazakhstan between member States during the accounting day when import customs duties amounts have been transferred to a joint account of the authorized body.

11. Import custom duties to be transferred from a joint account of the member State authorized body to the budget of the member States, as well as to the foreign currency accounts of another member States shall be calculated by multiplying the total amount of import customs duties to be distributed between member States on the distribution standards set in percentage.

In this case total amount of import customs duties to be distributed between member States shall be determined by subtracting the amount of import customs duties received (counted by the authorized body) during the accounting day taking into account settlement (payment) documents (instructions) that failed to be executed by the national (central) bank to transfer refunded import customs duties amounts in the accounting day, import customs duties amount to be refunded to the payers and counted against debt repayment during the current day.

In case if settlement (payment) documents (instructions) on import customs duties amounts refunded to be executed during the current day failed to be executed by the national (central) bank, this amount shall be distributed among member States during the next business day of the member State. In this case, import customs duties amounts which have not been transferred to the foreign currency accounts of other member States in accordance with this paragraph shall be considered as one day overdue.

12. Distribution standards of import customs duties amount for each member State established as follows:

Republic of Belarus - 4.70 percent;

Republic of Kazakhstan - 7.33 percent;

Russian Federation - 87.97 percent.

13. Import customs duties amounts transferred to member States is carried out by the authorized bodies of the member States to the foreign currency accounts of other member States on the next business day of a member State after the day of transfer to the joint account of the authorized body.

Settlement (payment) documents (instructions) on transfer of the import customs duties amounts to the member States shall be sent to the national (central) bank by the authorized body for further transfer to the foreign currency accounts of other member States no later than every 14 hours according to the local time. This settlement (payment) documents (instructions) shall state the date of import customs duties distribution and the amount to be distributed among member States in the national currency.

In case if specified settlement (payment) documents (instructions) have been sent to the national (central) bank of the member States during the current day before 14 pm according to the local time, corresponding payment shall be considered as one day overdue.

14. Transfer procedures to the member State budget of import customs duties received from the authorized bodies of the member States to the foreign currency account is regulated by section III of this Protocol.

15. Account of import customs duties distributed and transferred to the budgets of the member States shall be carried out by the authorized bodies of the member States.

16. Authorized body of the member State shall no later than in 10 calendar days before the beginning of the next calendar year notify authorized bodies of other member States about holidays established in accordance with the legislation of the member State.

In case if days-off have been changed, authorized body of the member State, where such changes occur, shall notify authorized bodies of other member States on such changes no later than 2 days prior to its entry into force.

17. In case of account details change in the foreign currency, according to which import customs duties amounts shall be transferred, authorized bodies of the member State shall not later than in 10 calendar days prior to the date when these changes entry into force, notify authorized bodies of other member States on updated account details.

In case if any other data necessary for the implementation of this Protocol have been hanged, the authorized body shall no later than 3 days prior to the date when these changes come into force, communicate to the authorized bodies of other member States information on such changes.

18. In case of absence of the import customs duties amounts to be distributed between member States, authorized body of the member State within the period prescribed by this Protocol on submission to the national (central) bank of the settlement (payment) documents (instructions) on transfer of funds to the foreign currency accounts of other member States shall transmit relevant information to the authorized bodies of other member States in electronic format using integrated information system of the EU, and prior to the date when this system comes into force - via electronic communications in form of graphical soft copy of the document with this information.

19. Central customs authorities of member States shall ensure application of uniform accounting principles for import customs duties on an accrual basis in accordance with the rules approved by the Commission.

20. In case of failure to transfer or incomplete transfer of funds to the foreign currency accounts of any member State within the time established by this section and non-delivery of information from the authorized body of the member State on absence of the import customs duties to be distributed, authorized body of the member State, which has not received funds on its foreign currency accounts, shall notify authorized bodies of the member States and the Commission on not transferred or incomplete transfer of funds.

21. Member State that did not transfer to any other member States distributed import customs duties amounts shall pay to these other member States late charge for the entire amount of existing indebtedness at a rate of 0.1 percent for each calendar day of delay, including the day when distributed import customs duties were not transferred to another member State (member States).

22. In case if member State submits information on absence of the import customs duties to be distributed under the conditions of the actual availability of these amounts, and in case of incomplete transfer of funds from a joint account of the authorized body to the foreign currency accounts of another member States, member State that incurred such violation shall transfer no later than within next business day to other member State import customs duties, subject to the budgets of other member States in accordance with this section, based on the amount that was not transferred to the foreign currency accounts of other member States.

At this member State incurred such violation shall pay default interest at the rate established by paragraph 21 of this Protocol, for each calendar day of delay, which is recognized as the period starting from the date on which the violation occurred, not including the day of the funds transfer to member States in accordance with this paragraph.

23. In case of non-delivery (partial delivery) of the funds from a member State without notification of the authorized body of the member State on the absence of the import customs duties to be distributed among member States, authorized body of the member State that did not receive funds in the foreign currency is not received funds on the third business day of a member State after the date of such non-delivery (partial delivery) may suspend the transfer of import customs duties amounts from the joint account to the foreign currency account of the first member State.

24. In the event if a member State decides to suspend transfers of import customs duties amounts funds to an account in a foreign currency of another member State, shall be credited to the budget of the first member State prior to cancellation of the suspension and transfer separately accounted in the budget of that member State.

Authorized body of a member State suspending transfer of import customs duties amounts to a foreign currency account of another member State shall immediately inform on such decision authorized body of other member States and the Commission.

25. The Commission not later than the business day following after the day when decision to suspend the transfer of import customs duties amount was taken, consult with executive authorities of the member States with a view to execute early resumption of the import customs duties amounts distribution mechanisms in full.

26. In case if as the results of the consultations referred to in paragraph 25 of this Protocol, the decision to resume import customs duties amounts distribution mechanisms has not been taken, this issue shall be presented for consideration of the Commission.

In case of the Commission's failure to take the decision on resumption of the import customs duties amounts distribution mechanisms, this issue shall be presented for consideration of the Intergovernmental Council.

27. When resuming the transfer of import customs duties amounts specified in paragraph 24 of this Protocol, it shall be transferred no later of the business day of a member State following the day of the notification receipt on such decision to the foreign currency accounts of those member States to which they were intended to be transferred in accordance with this Protocol, and default interests on that amount shall not be calculated.

28. Distributed import customs duties amounts not transferred by any member State to the foreign currency accounts of other member States, as well as the amounts not fulfilled by the national (central) banks of the member States obligations on funds transfer in U.S. dollars under Section III to this Protocol shall be applied as the national debt.

### III. Transfer Procedure of the Import Customs Duties to the Member State Budget Received from the Authorized Bodies of the Member States to the Foreign Currency Accounts

29. National (central) bank of the single (first) member State is obliged to sell to the national (central) bank of the other (second) member State the funds in U.S. dollars for the amount of the national currency of the first member State, equal to the amount of the first member State's national currency transferred in accordance with this Protocol to the foreign currency account of the authorized body of the second member State. Amount of U.S. dollars to be sold shall be determined in accordance with the official exchange rate of the first member State set by national (central) bank of the first member State on the business day following the date of funds transfer in the national currency of the first member State to a foreign currency account of the second member State.

Obligations on the funds sale in U.S. dollars shall be performed by national (central) bank of the first member State not later than within the next business day after the date of transfer of the equivalent amount in national currency of the first member State to a foreign currency account of the second member State.

At this, obligation on selling funds in U.S. dollars shall be performed by national (central) banks of each member State, regardless of the similar rights enforcement and obligations execution between the other member States.

National (central) banks of these two member States may determine by separate agreements that the execution of mutual obligations on funds transfer in U.S. dollars, including not-fulfilled obligations within the period prescribed in the second part of this paragraph and the obligations on late charges payment in accordance with paragraph 31 of this Protocol, shall be executed by means of the national (central) bank transfer, if obligations value in U.S. dollars exceeds counter obligations in U.S. dollars of another national (central) bank in U.S. dollars to another national (central) bank in the amount equal to the difference between the values of these mutual obligations.

Fulfillment of the monetary obligations in U.S. dollars referred to in this paragraph shall be performed in the following order:

at first, obligations on late charges payment in accordance with paragraph 31 of this Protocol;

at second, requirements fulfillment on obligations, which time of performance has come and are not overdue;

at third, requirements fulfillment on obligations not fulfilled within the period prescribed in the second part of this paragraph.

According to the specified obligations herewith of the national (central) bank of the first member State to sell funds in U.S. dollars to the national (central) banks of the second member State, the first member State with the national (central) bank of the first member State shall be jointly and severally liable before the second member State.

30. For the purpose of further settlement between the first member State and the second member State in the event of non-performance or improper performance of obligations specified in paragraph 29 of this Protocol, the obligations of the national (central) bank of the first member State on the funds sell in U.S. dollars to the national (central) bank of the second member State, requirements for the national (central) banks of the first member State are recorded in U.S. dollars at the official rate set by the national (central) bank of the first member State on the business day following the date of funds transfer in the national currency of the first member State to the foreign currency account of the second member State.



31. For non-performance or improper performance of the obligations specified in paragraph 29 of this Protocol of the national (central) bank of the first member State on the funds sale in U.S. dollars to the national (central) banks of the second member State, national (central) bank of the first member State or the first member State shall pay late charges, which shall be calculated according to the following formula:

$$\text{Late charge} = \text{Amount}_{\text{USD}} \times \frac{\text{LIBOR}_{\text{USD, o/n}} + 2\%}{360} \times \text{Days}$$

where:

Amount USD– amount (in U.S. dollars) to be transferred to the national (central) bank of the first member State to the national (central) bank of the second member State;

- a day LIBOR rate for U.S. dollars (in annual interest rate) established by British Bankers Association (BBA) for the day of failure to perform or improper performance of obligations;

Days - number of calendar days, counted from the date of failure to perform or improper performance of the obligations (inclusively) before the date of proper performance of obligations (excluding the date of the proper performance of obligations).

32. In case of non-performance or improper performance of the obligations by the first member State set forth in paragraph 29 of this Protocol, national (central) bank of the second member State, in respect of which such failure to perform or improper performance of the obligations occurred, has rights to transfer on a reimbursable basis requirement for non-performance or improper fulfillment of obligations, including requirement on penalties payment in accordance with paragraph 31 of this Protocol to the second member State without the consent and notification of the first member State and national (central) bank of the first member State.

33. National (central) bank of member State shall not be liable to the Government or authorized body of member State for failure to fulfill or improper fulfillment of obligations of another member State, including for non-fulfillment or improper fulfillment of obligations by national (central) bank of another member State

34. The costs and losses arising in front of the national (central) bank of the first member State in connection with calculations stipulated in this section including costs and

losses arising from changes of exchange rates, non-performance or improper performance of the obligations by other member States and national (central) banks of other member States, and are not recoverable by other member States. Conditions and reimbursement procedure of the costs and losses referred to hereinto the national (central) bank of the first member State are established by the first member State.

35. For the purposes of this section, business day when these settlements between two member States (including transactions between national (central) banks of these two member States) are carried out is considered as a business day for these two member States and for the United States of America.

36. Correspondent account in the national (central) bank of single (first) member State, opened at the national (central) bank of another (second) member State for the payments according to this Protocol, as well as funds held at this correspondent account, cannot be seized, blocked or fall under other security prohibitive or restrictive measures of judicial and other authorities of the second member State, that do not allow to use the funds of this correspondent account.

37. Debiting correspondent account at the national (central) bank of a single (first) member State opened in the national (central) bank of another (second) member State to make payments in accordance with this Protocol without the consent of the national (central) bank of the first member State is not permitted, unless otherwise provided by the contract of correspondent account.

38. In case if obligations on money sale in U.S. dollars specified in paragraph 29 of this Protocol have not been fully or partially executed by the national (central) bank of the first member State within 30 calendar days, national (central) bank of the second member State shall be entitled to use the funds without any restrictions in the national currency of the first member State until full execution of its obligations by the national (central) bank of the first member State, that are currently at the correspondent account at the national (central) bank of the first member State and intended to be calculated in accordance with this Protocol at the national (central) bank of the second member State.

39. National (central) bank of a single (first) member State implements the rights and fulfill obligations on a gratuitous basis under the contracts concluded with the national

(central) bank of the other (second) member State pursuant to this Protocol and in accordance herewith.

#### IV. Information Exchange Procedure between Authorized Bodies of the Member States

40. Authorized body of a member State no later than 4 p.m. (according to the local time for the Republic of Belarus - Minsk time, for the Republic of Kazakhstan - Astana time, the Russian Federation - Moscow time) of the current day shall submit to the authorized bodies of other member State the following information for the accounting day:

1) import customs duties amounts credited to a joint account of the authorized body of the member State;

2) amount executed by the authorized body for the accounting day counted against import customs duties payment;

3) import customs duties amounts credited during the accounting day counted against debt repayment, as well as import customs duties accounted separately and transferred during the current day for the debt repayment;

4) import customs duties amounts refunded during the accounting day and import customs duties amounts to be refunded separately during the current day;

5) refund amount of import customs duties that failed to be fulfilled by the national (central) bank during the accounting day;

6) import customs duties amounts to be distributed among member States;

7) distributed import customs duties amounts transferred to the foreign currency accounts of other member States;

8) amount of budget revenues of the member State from distribution of import customs duties transferred from a joint account of authorized body of that member State;

9) amount of budget revenues of the member State from distribution of import customs duties transferred to the foreign currency accounts of the authorized body;

10) amounts of the import customs duties distribution, which transfer to the foreign currency accounts of other member States has been suspended;

11) amount of late charges received by the member State from other member States for non-proper fulfillment of its obligations stipulated by this Protocol.

41. On the fifth business day of every month following the accounting day authorized body of the member State shall send information to the authorized bodies of other member States and to the Commission established by paragraph 40 of this Protocol reflecting cumulative total from the beginning of the calendar year in electronic format using integrated information system of the EU, and prior to the date when this system comes into force - via electronic communications in form of graphical soft copy of the document with this information.

42. Information format required by paragraphs 40 and 41 of this Protocol shall be agreed by authorized bodies and approved by the Commission.

43. Authorized bodies of the member States shall rapidly reconcile the data obtained in accordance with paragraphs 40 and 41 of this Protocol.

In case of differences it shall be protocolled and member States shall take measures to resolve these discrepancies.

44. Information provided for the authorized body of a member State to the authorized body of other member States and the Commission in accordance with paragraphs 40 and 41 of this Protocol, signed by the head of these authorized body or authorized person.

## V. Information Exchange Procedure Related to the Payment of Import Customs Duties

45. Central customs authorities of the member States shall provide information for each other as well as for the Commission in electronic form on a regular basis related to the payment of import customs duties and not related to the information constituting state secrets (state secrets).

46. Information related to the payment of import customs duties shall be formed on the basis of the following sources:

1) soft copies database of declarations for the goods furnished by customs duties authorities of the member States;

2) soft copies database of customs receipt vouchers issued by the customs authorities of the member States, if the customs receipt is applied by member State to reflect the payment of import customs duties;

3) database of personal accounts, registers and other documents containing information on import customs duties paid and transferred to the revenue budgets of the member States issued by customs authorities of the member States in accordance with the uniform accounting principles of import customs duties on an accrual basis in accordance with the rules approved by the Commission.

47. Information specified in paragraph 46 of this Protocol does not include data on goods import and customs payments by individuals transporting goods for personal use.

48. Information related to the payment of import customs duties (unit - U.S. dollars, to convert amounts from the national currency to U.S. dollars it is necessary to use average U.S. dollar exchange rate in respect of the currency of the national (central) bank in member State for the accounting month) shall be provided on a non-repayable basis in Russian language (it is allowed to use Latin alphabet for some separate positions) and include the following information for the reporting period:

1) amount of carryover import customs duties at the beginning and end of the reporting period;

2) amounts of import customs duties reflected in the customs clearance documents (collection);

3) amount of import customs duties counted against debt repayment;

4) amount of import customs duties returned to payers;

5) amount of granted indulgence and payment by installment for import customs duties;

6) other information relating to the payment of import customs duties.

49. Technological regulations on exchange of information related to the payment of import duties shall be developed and approved by the Commission.

These production schedules shall determine the structure and format specified in paragraph 48 of this Protocol, as well as procedure, terms and means of information distribution.

50. Electronic exchange of information between central customs authorities of the member States, as well as its submission to the Commission shall be carried upon provision of technical availability of customs authorities and the Commission, as they shall notify each other in the written form. Upon realization of the EU integrated information system information shall be exchanged between central customs authorities of the member States and submitted to the Commission electronically only by means of specified system.

51. Prior to the approval of process regulations on information exchange related to the payment of import customs duties, central customs authorities of the member States shall no later than the last day of the month following after the reporting period, provide information to each other and to the Commission specified in paragraph 48 of this Protocol in the form, approved by the Commission.

52. Central customs authorities of the member States and the Commission shall take necessary measures against unauthorized dissemination of information received in accordance with this section.

Central customs authorities of member States provide limited number of people who have access to such information and protect it in accordance with the laws of the member States.

The Commission uses information received in accordance with this section in order to implement paragraph 54 of this Protocol.

## VI. Monitoring and Control

53. State Control Committee of the Republic of Belarus, Account Committee for Control over Execution of the Republican Budget of the Republic of Kazakhstan and Accounts Chamber of the Russian Federation within the framework of joint audits shall

annually verify the compliance with provisions of this Protocol by authorized bodies of member States.

54. The Commission shall submit an annual report to the Intergovernmental Council on computation and distribution of import customs duties amounts.

55. According to its decision the Commission may establish special committee consisting of authorized employees, customs and other state bodies of the member States, as well as specialists in order to control (audit) the compliance with computation and distribution procedures of the transferred import customs duties by member States.

ANNEX 6  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Common Customs and Tariff Regulation

I. General Provisions

1. This Protocol has been developed in accordance with Section IX of the Treaty on the Eurasian Economic Union and defines the principles and procedure for application of measures of customs and tariff regulations on the customs territory of the EAEU.

2. The following definitions are used in this Protocol:

“similar goods” - goods which have like characteristics and like component materials by their functional purpose, application, qualitative and technical characteristics of the completely identical goods imported to the customs territory of the EAEU under the tariff rate quota, or (in the absence of completely identical goods) goods which have characteristics similar to the parameters of the goods imported to the customs territory of the EAEU within the tariff rate quota, allowing its use in functions, a similar designation of the goods imported to the customs territory of the EAEU under the tariff rate quota, and can be commercially interchangeable.

“significant suppliers from third countries” - suppliers of goods that have 10 or more percent share of imports of goods to the customs territory of the EAEU;

“volume of tariff rate quota” – quantity of goods in kind or in value for imports under the tariff rate quota;

“preceding period” – a period for which analysis of consumption volume of goods on the customs territory of the EAEU and the production volume of the like products on the customs territory of the EAEU is conducted;

“actual volume of imports” – volume of imports in the absence of any limitations;



“agricultural goods” - goods classified in Group 1 - 24 of Common Nomenclature of Foreign Economic Activity of the Eurasian Economic Union as well as such goods as mannitol, D-glucitol (sorbitol), essential oils, casein, albumin, gelatin, dextrin, modified starches, sorbitol, skins, leather, fur, down and fur materials, raw silk, silk waste, animal hair, raw cotton, cotton waste, hackled cotton fiber, raw flax and raw hemp;

“tariff rate quota” - a measure of control over the importation into the customs territory of the EAEU of certain kinds of agricultural products originating in third countries that provides for application of differentiated rates of the EAEU CET with regard to goods imported within the established volume (in kind and in value) within a fixed period of time and in excess of that volume.

## II. Tariff Exemptions

3. Tariff exemptions may be granted in the form of import customs duty exemption for goods being imported (imported) to the customs territory of the EAEU from third countries:

1) Goods imported as a foreign founder's contribution to the charter capital (fund) within deadlines established by charter documents for capital (fund) formation. The procedure of application of tariff exemptions with regard to these goods are established by the Commission.

2) Goods imported within the framework of international cooperation of the in research and exploration of space, including services in spacecraft launch, in accordance with the list approved by the Commission.

3) Products of watercraft of the member States and watercraft chartered by legal entities and (or) individuals of the member States;

4) the currency of the member States, the currency of third countries (except when used for numismatic purposes), and also paper holdings in accordance with the member States' legislation;

5) goods imported as humanitarian aid and (or) for the purpose of eliminating the consequences of accidents, catastrophes and natural calamities;

6) goods, except those that are excisable (excluding automobiles specifically meant for medical use), imported via the third countries, international organizations, governments as charity, and (or) recognized as free aid (assistance), including technical aid (assistance) in accordance with the legislation of the member States.

4. Tariff exemptions in respect of goods being imported (imported) to the customs territory of the EAEU from third countries may also be provided in other cases established by the Treaty on the Eurasian Economic Union, international treaties of the EAEU with third party and acts of the Commission.

### III. Conditions and Mechanism of Application of Tariff Rate Quotas

5. The volume of tariff rate quota in respect of certain kinds of agricultural products originating from third countries and imported into the customs territory of the EAEU, is established by the Commission and can not exceed the difference between the volume of consumption and production of the like product on the customs territory of the EAEU.

If the production volume of the like product was equal to the volume of consumption of the product or exceeds it in one of the member States, such difference is not considered when allocating the volumes of tariff rate quota for the customs territory of the EAEU.

6. If the production volume of the like product is equal to the volume of consumption on the customs territory of the EAEU, or exceeds it, tariff rate quotas can not be established.

7. When taking decision on introduction of tariff rate quota the following terms shall be met:

1) tariff rate quota shall be established for a specific period of time (regardless the results of consideration of the issue on distribution of volumes of tariff rate quota among third countries);

2) all interested third countries shall be informed of the allocated volume of tariff rate quota (in case if the decision on distribution of volume of tariff rate quota among third countries is taken);

3) information on the establishment of tariff rate quota, its global volume and duration, including the volume of tariff rate quota allocated for third countries (in case if the decision on distribution of volume of tariff rate quota among third countries is taken), as well as on in-quota import customs duty rates.

8. Allocation of tariff rate quota among participants of foreign trade activity of the member States is based on their equality for obtaining a tariff rate quota and non-discrimination with respect to the form of ownership, place of registration or position on the market.

9. Tariff quota volume is distributed among the member States within the difference between volumes of consumption and production in each member State, which was taken into account in calculation of the volume of tariff rate quota for the customs territory of the EAEU in accordance with paragraphs 5 and 6 of this Protocol.

In this case, the volume of tariff rate quota for the member State, which is a Member of the World Trade Organization, may be established based on the commitments of that member State under the World Trade Organization.

10. Volumes of tariff rate quotas are allocated among third countries by the Commission or by a member State based on the results of consultations with the major suppliers from third countries in accordance with the Commission decision, unless otherwise is stipulated by international treaties within the EAEU, international treaties of the EAEU with third party or decisions of the Supreme Council.

If the distribution of volume of tariff rate quota cannot be exercised on the basis of consultations with all major suppliers from third countries, the decision on the distribution of volumes of tariff rate quotas among third countries shall be taken taking into account the volume of supply of goods from that countries during the preceding period.

As a rule, any three preceding years, for which information on actual volume of imports is available, are considered as the preceding period.

If it is not possible to choose the preceding period, the volume of tariff rate quota is allocated on the basis of assessing the most likely distribution of the actual volume of imports.

11. In supplies of goods during the period of validity of tariff rate quota, conditions and (or) formalities that prevent any third country to fully utilize distributed volume of tariff rate quota, shall not be established.

12. At the request of third country interested in supply of goods, the Commission shall conduct consultations on:

- 1) the need to re-allocate distributed volume of tariff rate quota;
- 2) change in the selected preceding period;
- 3) the need to abolish the conditions, formalities or any other provisions established unilaterally in respect of distributed volume of tariff rate quota or its unrestricted use.

13. In connection with establishment of tariff rate quotas, the Commission shall:

- 1) at the request of third country interested in supply of goods, provide information concerning the method and procedures for allocation of tariff rate quota among participants of foreign trade activity, as well as on the volume of tariff rate quotas, towards which licences are issued;
- 2) publish information on total quantity or value of goods intended for supply within the allocated volume of tariff rate quota, the dates of beginning and end of tariff rate quota and any changes therein.

14. The Commission may not require that licenses shall be used for imports of goods from a particular third country, except for the cases, when the volume of tariff rate quota is allocated among third countries.

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ANNEX 7  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Measures for Non-tariff Regulation with regard to Third Countries

I. General Provisions

1. This Protocol is developed in accordance with Section IX of the Treaty on the Eurasian Economic Union and establishes the procedure and cases of application of measures for non-tariff regulation with regard to the third countries by the EAEU.

The provisions of this Protocol shall not be applied to the relations concerning the issues of technical regulation, the application of sanitary, veterinary and phytosanitary requirements, measures in the field of export control and military-technical cooperation.

2. The following definitions used in this Protocol:

“Automatic licensing (monitoring)” - a temporary measure, established with a view to monitor the dynamics of export and (or) import of certain kinds of goods;

“General license”- a license granting to the participants of foreign trade activity the right to export and (or) import certain kinds of licensed goods in quantity specified in license;

“Prohibition” - a measure prohibiting the import and (or) export of certain goods;

“Import” - importation of goods into the customs territory of the EAEU from third countries without the obligation to re-export;

“Exclusive license” - a license granting to the participants of foreign trade activity the exclusive right to export and (or) import certain kinds of goods;

“Exclusive right” - the right of the participants of the foreign trade activity to perform the export and (or) import of certain kinds of goods on the basis of an exclusive license;

“Quantitative restrictions” - measures on quantitative restrictions for the foreign trade in goods that are implemented under the quota;

“Licensing” - a set of administrative measures imposing the procedure for issuing licenses and (or) permits;

“License” - a special document on the right to export and (or) import the goods;

“One-time license” - license issued to the participants of foreign trade activity on the basis of a foreign trade contract, the subject of which is the licensed good, it grants the right to export and (or) import this good in a certain amount;

“Permit” - a special document issued to the participants of foreign trade activity on the basis of a foreign trade contract, the subject of which is the good in respect of which was implemented the automatic licensing (monitoring);

“Document of permit” - a document issued to the participants of foreign trade activity or individuals providing the right to import and (or) export of goods in the cases determined by the Act of the Commission;

“Authorized Body” - an executive body of a member State, invested with the right to issue licenses and (or) permits;

“Participants of foreign trade activity” - legal entities and organizations which are not legal entities registered in one of the member States and created in accordance with the legislation of this State, physical persons having a permanent or primary domicile on the territory of one of the member States, being citizens of this State or having a right to permanently reside there, or registered as sole traders in accordance with the legislation of this State;

“Export” - exportation of goods from the customs territory of the EAEU to the third countries without the obligation to re-import.

## II. Introduction and Application of Measures for Non-tariff Regulation

3. Common measures for non-tariff regulation (hereinafter: measure) in trade with third countries are applied on the territory of the EAEU.

4. Decisions on the introduction, application, extension and termination of the measure are adopted by the Commission.

Goods in respect of which decision on application of the measure was adopted shall be included in the Common list of goods subjects to measures for non-tariff regulation in trade with third countries (hereinafter: Common list of goods).

Goods in respect of which the Commission adopted a decision to establish tariff quotas or import quotas as a special safeguard measure and on issuing the license shall be included also in the Common list of goods.

5. Proposal on the introduction or termination of measure can be performed by a member State, as well as by the Commission.

6. During the preparation of the Act of the Commission on the introduction, application, extension and termination of the measure, the Commission shall inform the participants of foreign trade activity of member States, the economic interests of which may be affected by the adoption of such an Act, on the possibility to make suggestions and comments to the Commission and to conduct consultation.

7. The Commission shall decide on the manner and form of consultations, as well as the manner and form of communicating information on the progress and results of consultation to the interested persons, who have submitted their comments and suggestions.

Lack of consultation cannot be considered as the basis for the recognition of the Commission's decisions, affecting the right to conduct foreign trade activity, as invalid.

8. The Commission may decide not to hold consultations provided any of the following conditions is met:

1) measures under the draft decision concerning the right to conduct foreign trade activity, should not be known until its entry into force and consultation would or could result in failure to reach the goals of such a decision;

2) consultations will delay a decision affecting the right of foreign trade activity, which could lead to significant material injury of the interests to the member States;

3) draft decision of the Commission affecting the right of foreign trade activity envisages granting exclusive rights.

9. Procedure for submitting proposals on the introduction or termination of the measures shall be determined by the Commission.

10. The Decision of the Commission on the introduction of measure may include customs procedures by the application of which the customs authorities control the compliance of measures as well as customs procedures which cannot be applied for those goods on which measure was introduced.

### III. Prohibition and Quantitative Restrictions on the Export and Import of Goods

11. Export and import of goods shall be carried out without application of prohibition and quantitative restrictions, except as provided for in paragraph 12 of this Protocol.

12. In exceptional cases, the following measures can be applied:

1) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the internal market of the EAEU;

2) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

3) Import restrictions on fisheries product in any form, if necessary to:

limit the production or sale of the like product originating in the territory of the EAEU;

limit the production or sale of goods originating from the territory of the EAEU, which can be directly replaced by imported goods, if the EAEU does not have significant production of the like product;

remove from the market a temporary surplus of the like product originating in the territory of the EAEU, by providing this surplus to some groups of consumers for free or at below-market prices;

remove from the market a temporary surplus of goods originating from the territory of the EAEU, which can be directly replaced by imported goods, if the EAEU does not



have significant production of the like product, by providing this surplus to some groups of consumers for free or at below-market prices.

13. The introduction of the quantitative restrictions by the Commission on the territory of the EAEU involves exports and (or) import quotas.

Quantitative restrictions are applied:

for export - only in respect of goods originating from the territory of the EAEU;

for import - only in respect of goods originating from third countries.

Quantitative restrictions are not applied to import of goods from the territory of any third country or the export of goods to the territory of a third country, unless such quantitative restrictions do not apply to import from all third countries or export to all third countries. This condition does not preclude compliance with the obligations of the member States in conformity with international treaties.

14. Goods in respect of which may be imposed prohibition or quantitative restrictions on exports, shall be included in the list of goods that are essential for the domestic market of the EAEU, which is adopted by the Commission on the basis of proposals from the member States, in respect of which in exceptional cases may be imposed temporary prohibitions or quantitative restrictions on export.

15. In accordance with subparagraph 1 of paragraph 12 of this Protocol, while imposing prohibition or quantitative restrictions on the export of agricultural products, which are essential for the internal market of the EAEU, the Commission shall:

take into account the impact of the prohibition or quantitative restrictions on food supply security of the third countries importing such agricultural goods from the territory of the EAEU;

notify in advance the World Trade Organization Commission on Agriculture on the nature and duration of the prohibition or quantitative restrictions on the export;

organize consultations or provide all the necessary information on matters relating to the issue at the request of any importing State.

This paragraph refers to the importing State that is considered as the State whose share of imports of agricultural goods originating on the territory of the member States, in

respect of the export of which is planned to introduce a prohibition or a quantitative restriction, is not less than 5 percent.

16. The Commission distributes volumes of export and (or) import quotas between member States and determines the way of distribution of shares of export and (or) import quotas among the participants of foreign trade activity of the member States, as well as the volumes of import quotas between third countries.

The distribution of volumes of export and (or) import quotas between member States shall be conducted by the Commission on the basis of the tasks that need to be resolved by introducing quantitative restrictions after examination of proposals of the member States and production volumes and (or) the consumption of goods in each of the member States.

17. The Commission after adopting decision on the application of export and (or) import quotas ensures:

1) establishment of export and (or) import quotas (irrespective of whether they will be distributed between third countries or not) for a specified period;

2) information of all interested third countries on the amount of import quota available to them (if the import quota is shared between third countries);

3) publication of information on the application of export and (or) import quotas, their amounts and timing of actions, as well as on the distribution of import quotas between third countries.

18. Distribution of import quotas between third countries is executed, as a rule, by the Commission on the basis of consultations with all significant suppliers from third countries.

Significant suppliers of third country mean suppliers having a share of 5 percent or more in the import of the goods into the territory of the EAEU.

19. If the distribution of import quotas cannot be executed based on consultations with all significant suppliers from third countries, the decision on the distribution of quotas between third countries shall be taken by the Commission taking into consideration the volume of deliveries of goods from these countries during the preceding period.

20. The Commission shall not impose any conditions or formalities that can prevent any third country to utilize fully its import quota, provided that the delivery of the goods will be made during the period of import quota.

21. The choice of the preceding period for the goods in respect of which the export and (or) import quotas are applied is made by the Commission. As a rule, this period involves any previous 3 years, for which there is available information reflecting the real exports and (or) imports. If there is no possibility to choose preceding period export and (or) import quotas are distributed on the basis of assessing the most likely distribution of actual volumes of exports and (or) import.

Under this paragraph the real volume of exports and (or) imports means the volume of export and (or) import without any restrictions.

22. Upon request of any third country interested in the delivery of goods, the Commission shall consult with the country on:

- 1) the necessity for redistributing the import quotas;
- 2) modification of selected preceding period;
- 3) the necessity of abolishment of the conditions, formalities or any other provisions established unilaterally concerning the distribution of import quota or its unrestricted use.

23. Distribution of the shares of export and (or) import quotas among the participants of foreign trade activity is executed by the member States by means determined by the Commission, and is based on the principles of equality of participants of foreign trade activity in respect of receipt of shares of export and (or) import quotas and non-discrimination on grounds of form of ownership, place of registration or place on the market.

24. It is prohibited to require that the license will be used for export (import) of goods in any particular country and (or) from any particular country, except when the import quota is distributed among third countries.

25. Due to application of export and (or) import quotas, the Commission shall:

- 1) provide to the third countries interested in trade with the specified product with information regarding the order of distribution of export and (or) import quotas, the

mechanism of their distribution among the participants of foreign trade activity and the volume of licensed quotas;

2) publish information on the total quantity or value of goods export and (or) import of which will be resolved within a certain time in the future, as well as the dates of start and stop of the export and (or) import quotas and any changes therein.

#### IV. Exclusive Right

26. Conduction of foreign trade activity may be limited by granting an exclusive right.

27. Goods for export and (or) import of which the exclusive right is granted, as well as the procedure for determining by the member States participants of the foreign trade activity that are to be granted with the exclusive right shall be determined by the Commission.

The list of participants of the foreign trade activity that are granted the exclusive right on the basis of the Decision of the Commission shall be published on the official web-site of the Commission.

28. The decision to impose restrictions on foreign trade activity by granting the exclusive right shall be adopted by the Commission based on the proposal from the member States.

Justification for the need to introduce the exclusive right shall contain financial and economic calculations and other necessary information, confirming the practicability of this measure.

29. The participants of foreign trade activity, which are granted by the member States the exclusive right based on the decision of the Commission, conduct business on export and (or) import of the corresponding goods basing on the principle of non-discrimination, and guided only by commercial considerations, including conditions of purchase or sale, and provide organizations of third countries with adequate opportunity (in conformity with usual business practice) to compete for participation in such purchases or sales.

30. Import and (or) export of goods in respect of which the participants of foreign trade activity have the exclusive right shall be conducted on the basis of exclusive licenses issued by the authorized body.

#### V. Automatic Licensing (monitoring)

31. For the purpose of monitoring the dynamics of export and (or) import of certain goods, the Commission has the right to impose automatic licensing (monitoring) (hereinafter: automatic licensing).

32. The introduction of the automatic licensing is carried out on the initiative of the member States or the Commission.

Justification of the need to impose the automatic licensing shall contain information on the impossibility of monitoring of quantitative rates of export and (or) import of certain goods and their changes by the other means.

33. The list of specific kinds of goods in respect of which imposed automatic licensing as well as its terms shall be determined by the Act of the Commission.

Goods in respect of which imposed automatic licensing shall be included in the Common list of goods.

34. Import and (or) export of goods in respect of which imposed automatic licensing is carried out on the basis of permits issued by the authorized body of the member States in the manner determined by the Act of the Commission.

35. The issue of permits for import and (or) export of goods included in the Common list of goods shall be carried out in accordance with the Rules defined in the Appendix to this Annex.

#### VI. Permit Order

36. Permit order of import and (or) export of goods is implemented by introduction of licensing or application of other administrative measures regulating foreign trade activity.

37. The decision on the introduction, application and termination of permit order procedure shall be adopted by the Act of the Commission.

## VII. General Exceptions

38. Under import and export of certain goods measures, which can derogate from the provisions of Section III and IV of this Protocol, can be imposed, if they are

- 1) necessary to maintain public morals or law and order;
- 2) necessary to protect life or health of citizens, the environment, life or health of animals and plants;
- 3) related to export and (or) import of gold or silver;
- 4) applied to protect cultural values and heritage;
- 5) necessary to prevent the depletion of irreplaceable natural resources and implemented simultaneously with a limitation of domestic production or consumption related to the use of irreplaceable natural resources;
- 6) linked to a limitation of export of domestic raw materials to provide sufficient quantity of such materials for the domestic manufacturing industry in periods when domestic prices for such materials are kept lower than world prices as the result of a stabilization plan implemented by the government;
- 7) necessary to acquire or distribute goods which are in total or local shortage;
- 8) necessary to implement international commitments;
- 9) necessary to guarantee defense and security;
- 10) necessary to ensure the implementation of legal acts not contravening international commitments and related to the application of the customs law, preservation of the environment, protection of intellectual property, and other legal acts.

39. Measures stipulated in paragraph 38 of this Protocol, which are introduced by the Act of the Commission, shall not serve as a means of arbitrary or unjustifiable discrimination against third countries, or a disguised restriction on foreign trade of goods.

40. For the purpose of introduction or termination of the measure in respect of certain kinds of goods on the grounds stipulated in paragraph 38 of this Protocol, member

States shall submit to the Commission the documents containing the nature of the proposed measures, the term of their application, as well as justification of necessity for introduction or termination of such measures.

41. If the Commission rejects the proposal of the member State to introduce the measure on the grounds stipulated in paragraph 38 of this Protocol, the member State that has submitted the proposal of their introduction, may impose such measures unilaterally in conformity with Section X of this Protocol.

### VIII. Protection of External Financial Position and Safeguarding the Balance of Payments

42. If it is necessary to protect the external financial position and safeguard the balance of payments, measures may be applied, including measures that derogate from Sections III and IV of this Protocol.

Such measures may be applied by reason of critical condition of balance of payments only in the cases if other measures cannot stop a serious deterioration of position with external payments.

43. Measures, including measures that derogate from Sections III and IV of this Protocol may be applied if payments for imported goods are carried out in currencies forming foreign exchange reserves of the member States mentioned in paragraph 44 of the Protocol.

44. Restrictions on imports shall not be more substantial than necessary to prevent an imminent threat of serious decline in foreign exchange reserves of the member States or to restore a reasonable rate of increase in the foreign exchange reserves of the member States.

45. The Commission reviews the proposal of the member State on application of the measure mentioned in paragraph 42 of this Protocol.

46. If the Commission does not accept the proposal of the member State on application of the measure, the member State may unilaterally apply the measure specified in paragraph 42 of this Protocol in accordance with Section X of this Protocol.

## IX. Licensing in the Field of Foreign Trade of Goods

47. Licensing in cases imposed by the Commission shall be applied for import and (or) export of certain goods, if in respect of such goods are introduced:

quantitative restrictions;

exclusive right;

permit order;

tariff quota;

import quota as a special safeguard measure.

Licensing is implemented by the issuing of the import and (or) export license for goods to the participant of the foreign trade activity by the authorized body.

Licenses issued by the authorized body of one member State are recognized by all other member States.

48. Licensing of the import and (or) export of goods included in the Common list of goods shall be carried out in accordance with the Rules defined in the Appendix to this Protocol.

49. Authorized bodies issue the following licenses:

one-time license;

general license;

exclusive license.

Issuance of general and exclusive licenses is carried out in cases determined by the Commission.

## X. Application of Measures Unilaterally

50. In exceptional cases on the grounds provided for in Sections VII and VIII of this Protocol, the member State may unilaterally impose temporary measures in trade with third countries, including on the grounds which are different from those mentioned in Section III and IV of this Protocol;



51. The member State that introduced a temporary measure shall in advance, but no later than three calendar days prior to its introduction, notify the Commission and submit a proposal for the introduction of such measures within the customs territory of the EAEU.

52. The Commission shall consider the proposal from the member State on imposition of temporary measure and on the basis of the proposal from the member State, the Commission may decide to impose such measures on the customs territory of the EAEU.

53. In this case the validity of such a measure shall be set up by the Commission.

54. If the decision to impose temporary measures on the customs territory of the EAEU is not adopted, the Commission informs the member State, which imposed temporary measures, and customs authorities of the member States that temporary measure is valid not more than 6 months from the date of their introduction.

55. After receiving a notification from the member States on the introduction of temporary measure, the Commission shall immediately inform the customs authorities of the member States on the introduction of the temporary measure by one member State. Information shall include:

- 1) name of the legal normative act of the member State according to which the temporary measure is imposed;
- 2) name of the good and its code in conformity with the UNCTED of the EAEU;
- 3) introduction date of the temporary measure and the term of validity.

56. After receiving the information specified in paragraph 55 of this Protocol customs authorities of the member States shall not allow:

export of the corresponding goods originating from the territory of the member State which has unilaterally applied the temporary measure information on which is contained in such information without a license issued by the authorized body of that member State;

import of the corresponding goods destined for the member State which has unilaterally applied the temporary measure without a license issued by the authorized body of that member State. The member States that do not apply the temporary measure shall

take the necessary efforts to prevent the importation of these goods into the territory of the member State which has applied the temporary measure.

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Appendix to Annex 7  
of the Treaty on the  
Eurasian Economic Union

The Rules of the Issuance of Licenses and Permits to Export and (or) Import of  
Goods

I. General Provisions

1. These Rules determine the order of license issuance and issuance of permits for export and (or) import of goods included in the Common list of goods which are subject to non-tariff measures in trade with the third countries.

2. In these Rules the terms are used as specified in Annex No. 7 to the Treaty on the Eurasian Economic Union as well as the following terms:

“Applicant” - a participant of foreign trade activity submitting to an authorized body the documents for registration of a license or permit;

“Execution of license” - the factual import into the customs territory of the EAEU, or export from the customs territory of the EAEU of goods in respect of which the customs authorities performed the clearance on the basis of issued (executed) licenses;

3. For the issuance (execution) of licenses and duplicate copies of the licenses, the authorized body imposes the state duty (license fee) in the manner and amount stipulated in the legislation of the member State.

4. Licenses and permits are issued for each product that is classified according to United Goods Nomenclature of foreign economic activity of EAEU in respect of which introduced licensing or automatic licensing (monitoring).

5. The signatures of officials of the authorized bodies who empowered to sign licenses and permits as well as the specimen seal impression of the competent authorities shall be submitted to the Commission for notification of the customs authorities of the

member States.

6. Documents submitted for registration of a license or permit as well as documents confirming the fulfillment of the license shall be kept by the authorized bodies for 3 years after the expiration of the license or permit or the date of the decision to terminate or suspend the license.

After this period, the documents shall be destroyed in accordance with the legislation of the member State where a license or permit was issued.

7. Authorized bodies shall keep a database of issued licenses and permits and submit this information to the Commission in the manner and within the timeframe established by the Commission. The Commission submits the data on issued licenses to the customs authorities of the member States.

## II. Order of the Licenses Issuance

8. Registration of application for a license and execution of license shall be carried out in accordance with the Instruction on the registration of application for a license to export and (or) import of certain goods and registration of such a license, which shall be adopted by the Commission.

License may be issued (registered) in the form of an electronic document in the order adopted by the Commission and before adoption - in accordance with the legislation of the member State.

Structure and format of the license made in the form of electronic documents shall be approved by the Commission and before adoption - in accordance with the legislation of the member State.

9. Validity of a one-time license may not exceed one year from the date of its entry into force. Validity of a one-time license may be limited by the validity period of a foreign trade contract (agreement) or validity of the document that served as a basis for the issuance of a license.

For the goods in respect of which were imposed quantitative restrictions on export and (or) import or an import quota as special safeguard measures or tariff quotas, the

validity period of license shall be expired in the calendar year for which was imposed the quota.

Term of validity of a general license may not exceed one year from the date of its inception, and for the goods in respect of which quantitative restrictions have been imposed, it ends in a calendar year for which a has been implemented, unless otherwise agreed by the Commission.

The Commission in each particular case shall establish term of validity of an exclusive license.

10. For registration of a license by an applicant or his representative that has written confirmation of his authority the following documents shall be submitted to the authorized body:

1) an application for a license, filled and formed in accordance with the instructions on the registration of an application for a license to export and (or) import of certain goods and presentation of such a license (hereinafter: application);

2) an electronic copy of the statement in a format approved by the Commission, before its approval – in the order established by the legislation of the member State;

3) a copy of a foreign trade agreement (contract), appendices and (or) additions to it (for a one-time license), and in the absence of a foreign trade agreement (contract) - a copy of a document confirming the intentions of the parties;

4) a copy of a document of registration in tax authorities or registration authority, if such requirement is established in the legislation of the member State;

5) a copy of the license to conduct a licensed activity (if established in the legislation of the member State), if such activity is connected with the turnover of the goods, in respect of which licensing has been introduced for the customs territory of the EAEU;

6) other documents (information), if they are decided upon by the Decision of the Commission, pursuant to which a licensing of this good has been introduced.

11. Each sheet of submitted document copies must be attested by signature and stamp of the applicant, or copies of documents must be stitched up and attested by signature and stamp of the applicant.

Documents submitted by the applicant shall be registered in the authorized body.

Application and applied documents (information) may be submitted in electronic form in accordance with the legislation of the member State. It is allowed to submit documents (or information about them) in form of scanned documents certified by the electronic signature of the applicant, if it is prescribed by the legislation of the member State.

License shall be issued after the applicant has submitted a document confirming payment of state fee (license fee) in order and amount prescribed by the legislation of the member State.

12. In cases stipulated by the Commission's decision, a statement prior to submission to the authorized body shall be sent by the applicant or the authorized body for approval to the appropriate executive state authority of the member State, defined by the member State, if it is prescribed by the legislation of the member State.

13. Issuance of a license or refusal to issue shall be made by the authorized body on the basis of the documents stipulated in paragraph 10 of these Rules within 15 working days from the date of submission of the documents, unless otherwise established by the Decision of the Commission.

14. The grounds for refusal to issue a license are:

1) the presence of incomplete or inaccurate information in the documents submitted by the applicant to get a license;

2) non-compliance with the requirements stipulated in paragraphs 10-12 of these Rules;

3) termination or suspension of one or more documents that serve as the basis for issuance of a license;

4) violation of international obligations of the member State, which may occur as a result of execution of the contract (contract) for realization of which a license is being requested;

5) quota exhaustion as well as tariff quotas or their absence (in the case of registration of a license for goods subject to quotas).

6) on the other grounds stipulated by the Act of the Commission.

15. Decision to refuse to issue a license shall be reasoned and submitted to the

applicant in writing or in electronic form, if it is prescribed by the Act of the Commission and in the absence of the Act – by the legislation of the member State.

16. Authorized body draws up an original license, which is issued to the applicant. Applicant before the customs clearance of goods shall submit the original license to the relevant customs authority, which in setting license control gives the applicant its copy with the stamp of customs authority on the setting license control.

If the authorized body issued (registered) license in the form of an electronic document, in this case the applicant is not required to submit the original license in paper form to the customs authority of his/her state.

Order of interaction of authorized and customs bodies for the execution of licenses issued in electronic form shall be defined by the legislation of the member State.

17. Amendments to the issued licenses are not permitted, including those for technical reasons.

18. If amendments were made in the constituent documents of the applicant registered as a legal entity (the change of the legal form, name or its residence), or if the passport data of the applicant had been changed, if it is a natural person, the applicant shall apply for termination of the issued license and submit an application for a new license with the documents confirming the specified changes.

19. Authorized body has the right to decide to terminate or suspend the license in the following cases:

1) a written request of the applicant, submitted in writing or in electronic form if it is prescribed by the legislation of the member State;

2) changes in the constituent documents of the applicant, registered as a legal entity (the change of the organizational-legal form, name or its location), or change of the passport information of the applicant, being a natural person;

3) identification of false information in the documents submitted by an applicant in order to obtain a license;

4) termination or suspension of one or more documents on whose basis the license was issued;

5) execution of the agreement (contract) under which the license is issued, violates

the international state obligations of the member State;

6) revocation of license on the licensed activity, if such activity is connected with the turnover of the goods, in respect of which a licensing is introduced;

7) identifying violations made while issuing a license, which caused the issuance of a license, which in compliance with the established order could not be issued;

8) non-observance by a licensee of conditions for issuance of a license specified by international legal acts or legal act of the member States;

9) availability of the judicial decision

10) non-observance by a licensee of paragraph 22 of these Rules.

20. A license shall be suspended from the date of the decision of the authorized body concerning this question.

A suspended license may be renewed by the authorized body after removing the causes of the suspension of this license. However, the license suspension is not a reason to extend it.

The order of suspension or termination of the license shall be determined by the Commission.

21. In the event of loss of license the authorized body shall issue upon a written request of the applicant and payment of state taxes (license fee) in the manner and amount as are prescribed by legislation of the member State a duplicate of the license, made out like the original, containing a record of "duplicate".

The request, which explains the causes and circumstances of loss of the license, is to be drawn up in any form.

The duplicate of the license shall be issued by the authorized body within 5 working days from the date of the request.

22. Holders of general and exclusive licenses on a quarterly basis, before the 15<sup>th</sup> of the month following the reporting quarter, shall submit to the authorized body a report on the execution of the license.

Holders of one-time licenses shall submit to the authorized body a certificate of performance of the license within 15 days from the date of the expiration of the license.

23. With the removal of the license from control a relevant customs authority of the



member State shall provide the applicant on the basis of his written request within 5 working days a certificate on the performance of the license.

The form and the order of issuance of the certificate shall be determined by the Commission.

24. The customs authorities shall provide information in electronic form on the performance of licenses directly to the authorized body of the member State, if the submission of such information from customs authorities is prescribed by the legislation of the member State.

If information on the performance licenses submitted by the customs authorities in electronic form directly to the authorized body, reports on the performance of licenses and certificates of performance licenses shall not be submitted by the holders of licenses to the authorized bodies.

## II. Order of Permits Issuance

25. Execution of the project permit and permit shall be effectuated in accordance with the instructions on the registration of the project permit for export and (or) import of certain goods and presentation of such a permit approved by the Commission.

Permit can be granted (formalized) in the form of electronic document in the manner approved by the Act of the Commission, and prior to adoption of such act - by the legislation of the member State.

Structure and format of permit in the form of electronic document shall be approved by the Act of the Commission, and prior to adoption of such act – by the legislation of the member State.

Permits issued by the authorized body of the member State shall be recognized by all other member States.

26. Period for issue of permits cannot exceed 3 working days from date of filing of application.

Permits shall be issued without limitation to any participants of foreign trade activity on the basis of the following documents submitted to the authorized body of the member

State:

written application;

draft permit in hard copy;

softcopy of draft permit in a format approved by the Commission, and prior to adoption– in format determined by the legislation of the member State.

27. Duration of permit shall be limited by calendar year in which permit is issued.

28. The authorized body shall formalize an original permit issued to participant of foreign trade activity or its representative, having a written confirmation for authority to receive it.

Participant of foreign trade activity prior to customs declaration of goods shall submit original permit to appropriate customs authority, which when setting permit on control, gives participant of foreign trade activity its copy with note of customs authority about setting on a control.

If the authorized body issued (formalized) permit in the form of electronic document, participant of foreign trade activity is not required to submit original permit in hard copy to customs authority of its state.

Order of interaction between authorized and customs authorities on control over execution of permit, issued in form of electronic document, shall be determined by the legislation of the member States.

29. Issued permits shall not be re-executed for other participants of foreign trade activity.

Amendments to the issued permits are not allowed.

30. In the event of loss of the issued permit the authorized body shall issue upon a written request of the applicant a duplicate of the permit, made out like the original, containing a record of "duplicate". This request shall explain the causes and circumstances of loss of the license. The request may be drawn up in any form.

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ANNEX 8  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Application Of Safeguard, Antidumping And Countervailing Measures With Regard to  
Third Countries

I. General Provisions

Scope of application and basic terms

1. This Protocol is developed in accordance with Articles 48 and 49 of the Treaty on the Eurasian Economic Union and determines the application of safeguard, antidumping and countervailing measures with regard to third countries in order to protect economic interests of producers of products in the EAEU.

2. Terms used in this Protocol mean the following:

“like product” is a product that is identical to the product under investigation (review), or in the absence of such a product – other product, which has characteristics similar to those of the product under investigation (review);

“antidumping measure” is a measure to counteract dumped imports, which is introduced by a decision of the Commission by means of imposing antidumping duty, including the provisional antidumping duty, or approval of the voluntary price undertakings from an exporter;

“antidumping duty” is a duty that is imposed with the introduction of antidumping measure and charged by customs authorities of the member States regardless of levying of import duty;

“dumping margin” is the percentage ratio of normal value of product excluding export prices of such product to the export price or the difference between the normal value of product and the export price, expressed in absolute terms;

“import quota” is a limit on imports of product to the customs territory of the EAEU with respect to its quantity and (or) value;

“countervailing measure” is a measure to counteract the effect of specific subsidies of exporting third country on sector of economy of member States that is applied by the decision of the Commission by means of introduction of countervailing duty or approval of voluntary undertakings by the authorized body of subsidizing third country or exporter;

“countervailing duty” is a duty that is applied with the introduction of countervailing measure and charged by customs authorities of the member States, regardless of levying import duty;

“material injury to sector of economy of the member States” is positive evidence of deterioration of the sector of economy of the member States, which may be expressed in particular decrease in the volume of production and sales of the like product in the member States, reducing the profitability of production of such product, as well as a negative effect on inventories, employment, wages in the sector of the economy of the Parties and the level of investment in this sector of the economy of the member States;

“directly competitive product” is a product that is comparable with the product under investigation (review), in its intended purpose, use, quality and technical characteristics, as well as other basic properties so that a buyer is willing to replace or substitute it during the consumption by products under investigation (review);

“ordinary course of trade” is the purchase and sale of the like product on the market of the exporting foreign country at a price not lower than its weighted average cost, determined on the basis of weighted average costs of production and sales, administrative and general costs;

“payers” are persons determined in accordance with the Customs Code of the EAEU;

“provisional antidumping duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of dumped imports and the resulting material injury to the sector of economy of the member States, threat of such

injury or a significant delay in the establishment of the sector of economy of the member States;

“provisional countervailing duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of subsidized imports and the resulting material injury to the sector of economy of the member States, threat of such injury or a significant delay in the establishment of the sector of economy of the member States;

“provisional special duty” is a duty applied when importing the product to the customs territory of the EAEU, in respect of which the investigating body has made a preliminary conclusion in the course of investigation on existence of increased imports and the resulting serious injury or threat of injury to the sector of economy of the member States;

“previous period” is a 3 calendar years immediately preceding the date of filing the application for an investigation and for which the necessary statistical data is available;

“related parties” - persons who meet one or more of the following criteria:  
each of these persons is an employee or director of an organization established with the participation of another person;

persons are business partners, that is they are bound by contractual relationship, operate for profit and jointly bear the costs and losses related with the implementation of joint activities;

persons are employers and employees of the same organization;

any person directly or indirectly owns, supervise or is the nominal holder of 5 percent or more of the voting shares or shares of both persons;

one of the persons directly or indirectly supervise another person;

two persons together directly or indirectly supervised by a third person;

two persons together directly or indirectly supervise a third entity;

persons are in marital relations, kinship relations, or are adoptive parent and an adoptee, as well as a trustee or a ward.

At the same time the direct supervision means the possibility of legal or natural person to determine the decisions made by a legal person through one or more of the following actions:

- Carrying out the functions of its executive body;
- Obtaining the right to determine the conditions of entrepreneurial activity of a legal person;
- The disposal of more than 5 percent of the total number of votes on shares (stakes) in the authorized (reserve) capital (fund) of a legal person.

The indirect supervision means the possibility of legal or natural person to determine the decisions made by a legal person through a natural or a legal person or by several legal persons between whom there is no direct supervision.

“serious injury to sector of economy of the member States” is positive evidence of general deterioration of the situation related to the production of like or directly competitive product in the member States, which is expressed in significant deterioration in industrial, commercial and financial situation of the sector of economy of the member States;

“safeguard measure” is a measure to limit the increased imports to the customs territory of the EAEU which is introduced by the decision of the Commission by imposing an import quota, special quota or special duty, including a provisional special duty;

“special quota” is establishment of a certain volume of import of product to the customs territory of the EAEU, which product is delivered to the customs territory of the EAEU without payment of a special duty, in excess of this volume – with payment of special duty;

“special duty” is a duty applied in introduction of safeguard measure and collected by customs authorities of member States regardless of levying import duty;

“subsidized import” is an import of a product to the customs territory of the EAEU, production, export or transit of which is subsidized by the exporting state.

“third countries” are countries and (or ) association of countries which are not participants of the Treaty as well as the territories included to Qualifier of the countries of the world, approved by the Commission;

“subsidizing body” is a public body or a local government body of exporting third country or a person acting on behalf of relevant public body or local government body or authorized by relevant public body or local government body in accordance with a legal act or on the basis of factual circumstances;

“threat of material injury to the sector of economy of member States” is positive evidence of the inevitability of material injury to sector of economy of member States;

“threat of serious injury to sector of economy of member States” is positive evidence of the inevitability of serious injury to sector of economy of member States;

“export price” is a price paid or shall be paid when importing product into the customs territory of the EAEU.

## II. Investigation

### 1. Goals of investigation

3. Before the introduction of safeguard, antidumping or countervailing measure on import of a product, investigation shall be conducted in order to determine:

existence of increased imports to the customs territory of the EAEU and the resulting serious injury to sector of economy of member States or threat of it;

existence of dumped or subsidized imports to the customs territory of the EAEU and the resulting material injury to sector of economy of member States or threat of it or a significant delay in the establishment of sector of economy of member States.

### 2. The investigating body

4. The investigating body acts within the powers conferred upon it by international treaties and acts that constitute law of the EAEU.

5. The investigating body as a result of the investigation provides the Commission with a report, containing proposals on expediency of application or extension of safeguard, antidumping or countervailing measure, or review or cancellation of safeguard, antidumping or countervailing measure, and it is attached with the draft of the relevant act of the Commission.

6. Review of safeguard, antidumping or countervailing measure provides its modification, cancellation or liberalization on the basis of the results of the review.

7. In cases provided for in paragraphs 15-22, 78-89, 143-153 of this Protocol, the investigating body, prior to completion of the investigation, provides the Commission with a report containing proposals on the expediency of the imposition and application of provisional special, provisional antidumping or provisional countervailing duty with attached draft of relevant decision of the Commission.

8. Evidences and information provided to the investigating body as well as correspondence with the investigating body shall be in Russian language, and the original documents that are compiled in foreign language must be accompanied by a verified translation into Russian language (with certification of presented translation).

### III. Safeguard Measures

#### 1. General principles of application of safeguard measures

9. A safeguard measure shall be applied to the product imported into the customs territory of the EAEU from exporting third country, irrespective of the country of its origin, with the exception of:

product originating from developing or least developed third country which uses a unified system of preferences of the EAEU, until the share of imports of the product from the country exceeds 3 percent of total imports of the product to the customs territory of the EAEU, provided that the total share of imports of the product from developing and least developed third countries, the share of each of which accounts for no more than 3 percent of total volume of imports of the product to the customs territory of the EAEU, shall not exceed 9 percent of total imports of the product to the customs territory of the EAEU;

product originating from a member State of Commonwealth of Independent States, which is a Party of the Treaty on the free trade dated October 18, 2011, provided the fulfillment of conditions specified in the article 8 of the indicated Treaty.

10. The Commission shall take a decision on the extension of safeguard measure for product originating from developing or least developed third country, which is



excluded from the safeguard measure in accordance with the paragraph 9 of this Protocol, in case as a result of review conducted by investigating body in accordance with the paragraphs 31,33 or 34 of this Protocol, it has been established that the share of imports of product from such developing or least developed third country exceeds the indicators, specified in the paragraph 9 of this Protocol.

11. The Commission shall take a decision on the extension of safeguard measure to the product originating from the member State of Commonwealth of Independent States, which is a Party of the Treaty on foreign trade zone dated October 18, 2011, excluded from the safeguard measure in accordance with the paragraph 9 of this Protocol, in case as a result of review conducted by investigating body, in accordance with the paragraphs 31,33 or 34 of this Protocol, it has been established that the conditions specified in the article 8 of the indicated Treaty are no longer fulfilled.

2. Determination of serious injury to the sector of economy of member States or threat of such injury as the result of increased import

12. In order to determine serious injury to the sector of economy of member States or threat of such injury as a result of increased imports to the customs territory of the EAEU, the investigating body in the course of investigation evaluates the objective factors that may be expressed in quantitative terms and affect the economic situation of the sector of economy of member States, including:

1) the rate and extent of growth of imports of the product under investigation, in absolute terms and relative terms to total volume of production or consumption of like or directly competitive product in member States;

2) the share of imported product under investigation in the total volume of sales of this product and like or directly competitive product in the market of the member States;

3) the level of prices of imported product under investigation, in comparison with level of prices for like or directly competitive product, manufactured in the member States;

4) the change in volume of sales of like or directly competitive product, manufactured in member States, on market of member States;

5) the change in volume of production of like or directly competitive product, productivity, capacity utilization, amount of profits and losses as well as level of employment in sector of economy of member States.

13. Determination of serious injury to the sector of economy of member States or threat of such injury as a result of increased imports shall be based on the analysis of all evidence and information relevant and available to the investigating body.

14. The investigating body in addition to the increased import analyses other known factors, which caused during the same period serious injury to the sector of economy of member States or threatens to cause such injury. This injury shall not be assigned to the injury of the sector of economy of member States due to increased imports to the customs territory of the EAEU.

### 3. The imposition of provisional special duty

15. In critical circumstances, where delay in application of safeguard measure would cause injury to the sector of economy of member States, which would be difficult to eliminate later, the Commission until the completion of appropriate investigation may take a decision on the imposition for a period not exceeding 200 days of a provisional special duty on the basis of preliminary determination of the investigating, according to which there is clear evidence that increased import of the product under investigation have caused or threatens to cause serious injury to the sector of economy of member States. The investigation shall be continued in order to obtain the final conclusion of the investigating body.

16. The investigating body notifies in writing authorized body of the exporting third country as well as other interested parties known to it about the possible imposition of a provisional special duty.

17. At the request of the authorized body of the exporting third country to hold consultations on the imposition of provisional special duty, such consultations shall be initiated after the adoption of the decision to impose the provisional special duty by the Commission.

18. If as the result of the investigation it is determined that there are no grounds for the imposition of safeguard measure or the decision on non-application of safeguard

measure in accordance with the paragraph 272 of this Protocol was taken, the amount of provisional special duty shall be returned to the payer in a manner specified in the annex to this Protocol.

The investigating body shall promptly inform customs authorities of member States about taking decisions, indicated in sub-paragraph 1 of this paragraph.

19. If as the result of the investigation it was considered to impose a safeguard measure (including in the form of import quota or special quota), the duration of provisional special duty shall be counted in the total duration of safeguard measure, and the amount of provisional special duty from the date of entry into force of decision on the application of safeguard measure taken by the results of investigation shall be credited and distributed in the manner specified in the appendix to this Protocol, taking into account provisions of paragraphs 20 and 21 of this Protocol.

20. If as the result of the investigation it was considered reasonable to impose a lower rate of special duty than the rate of provisional special duty, the amount of provisional special duty corresponding to the amount of special duty, calculated at statutory rate of special duty, shall be credited and distributed in the manner specified in the appendix to this Protocol.

The amounts of provisional special duty that exceed amount of special duty calculated at statutory rate of special duty shall be returned to the payer in the manner specified in the appendix to this Protocol.

21. If as the result of the investigation it was considered reasonable to impose a higher rate of special duty than the rate of provisional special duty, the difference between amounts of special duty and provisional special duty shall not be charged.

22. Decision to impose provisional special duty shall be taken, as a rule, not later than 6 months from date of initiation of investigation.

4. The application of safeguard measure

23. Safeguard measure shall be applied by the decision of the Commission in the amount and within the time period required to prevent or remedy serious injury to sector of economy of member States or threat of such injury, as well as to facilitate the adjustment of sector of economy of member States to the changing economic conditions.

24. If safeguard measure is applied through the imposition of import quota, the level of the import quota shall not be lower than the average annual volume of import of product under investigation (in quantity or value terms) for previous period, except the cases when it is necessary to impose a lower import quota to eliminate serious injury to sector of economy of member States or threat of such injury.

25. In case of the allocation of import quota among exporting third countries, those of them that are interested in exportation of the product under investigation to the customs territory of the EAEU shall be provided with opportunity to hold consultations on the allocation of import quota between them.

26. If the consultations provided for in paragraph 25 of this Protocol, or in the course of consultation arrangement on such distribution was not reached, import quota shall be distributed between exporting third countries interested in exporting of the product under investigation, to the customs territory of the EAEU, in proportion developed in importing of this product from these exporting third countries for previous period on the basis of total volume of imports of such product in quantity and value terms.

Any particular factors that might or may influence on the course of trade shall be taken into account.

27. If the rate of increase in imports of the product under investigation from individual exporting foreign countries has increased disproportionately to the total increase in imports of such product for three years preceding the date of filing the application for an investigation, the Commission may allocate import among those exporting third countries taking into account the absolute and relative growth rates of imports of such product to the customs territory of the EAEU from those exporting third countries.

The provisions of this paragraph apply only if the investigating body determines existence of serious injury to sector of economy to member State.

28. Procedure of application of safeguard measure in the form of import quota shall be determined by the Commission. If such Decision provides licensing of import, licenses shall be issued in the manner specified by the article 59 of this Treaty.

29. In the event that safeguard measure is applied by establishing of special quota, determination of amount, distribution and application of such quota shall be made in the manner specified for import quota in the paragraphs 24-28 of this Protocol.

#### 5. Duration and review of safeguard measure

30. Duration of safeguard measure shall not exceed 4 years, except for the extension of such measure in accordance with the paragraph 31 of this Protocol.

31. Duration of safeguard measure referred to in the paragraph 30 of this Protocol may be extended by the decision of the Commission, if upon the results of review by the investigating body, it was determined that for the elimination of serious injury to sector of economy of member States or threat of such injury, and the extension of safeguard measure is necessary and there is evidence that relevant sector of economy of member States has adopted measure to facilitate adjustment of this sector of economy to changing economic conditions.

32. When the Commission takes a decision about extension of safeguard measure, such measure shall not be more restrictive than safeguard measure that was in force on the date when the decision extension of safeguard measure was made.

33. If duration of safeguard measure exceeds one year, the Commission gradually liberalises such safeguard measure in equal intervals throughout the period of its application.

If duration of safeguard measure exceeds 3 years, no later than half the period of application of this measure, the investigating body carries out a review that results in extension, liberalization or cancellation of the safeguard measure.

For the purposes of this paragraph, liberalisation of safeguard measure means an increase in the volume of import quota or special quota, or reduction of special duty rate.

34. Without prejudice to the provisions of the paragraph 33 of this Protocol, upon the initiative of the investigating body or upon request of interested person, review can be conducted in order to:

1) determine expediency of change, liberalization or abolition of safeguard measure in relation to changed circumstances, including clarification of product, which is an

object of safeguard measure, if there is a reason to assume that such product cannot be produced in the EAEU in course of application of this safeguard measure;

2) determine share of developing or least developed third countries in total volume of import of product to the customs territory of the EAEU.

3) determine fact of meeting the criteria set in the article 8 of this Treaty, for member State of Commonwealth of Independent States, which is a Party of the Treaty on foreign trade zone dated October 18, 2011.

35. Application for carrying out the review for the purposes specified in the subparagraph 1 of this paragraph, can be accepted by the investigating body, if at least one year has passed after the imposition of safeguard measure.

36. In the course of reviews taking into account relevant differences the provisions relating to the investigations shall be applied.

37. Total duration of safeguard measure, including duration of provisional special duty and the period for which a safeguard measure is extended shall not exceed 8 years.

38. Safeguard measure cannot be reapplied to the product to which safeguard measure was previously applied, during the period equal to the duration of previous safeguard measure. At the same time period during which the safeguard measure was not applied cannot be less than 2 years.

39. Safeguard measure, the duration of which is 180 days or less, regardless of provisions set by the paragraph 37 of this Protocol, can be applied again for the same product, if passed at least one year from the moment of introduction of previous safeguard measure and safeguard measure was not applied for such product more than 2 times during 5 years, preceding the date of introduction of new safeguard measure.

#### IV. Antidumping Measures

##### 1. General principles for application of antidumping measure

40. The product is a subject to the dumped imports, if the export price for such product is lower than its normal value.

41. Period of investigation when information for the purpose of determining existence of dumped import is analyzed shall be determined by the investigating body.

At the same time, such period shall be equal, as a rule, to 12 months, preceding the date of filing of application for the investigation, but in any case this period shall not be less than 6 months.

## 2. Determination of dumping margin

42. Dumping margin shall be determined by the investigating body on the basis of comparison of:

1) the weighted average normal value of product with weighted average export price of product;

2) the normal value of product on individual transactions with export prices for product on individual transactions;

3) the weighted average normal value of product with export prices of product on individual transactions, subject to significant differences in price of product depending on buyers, regions or period of delivery of goods.

43. A comparison of export price of product with its normal value shall be made at the same level of trade and in cases of sales of product that took place as far as possible at the same time.

44. During the comparison of the export price of product with its normal value, the adjustment shall be made according to the differences affecting price comparability, including differences in conditions and characteristics of deliveries, taxation, stages of commercial operations, quantity terms, physical characteristics and any other differences, in regard to which evidence of their impact on price comparability is presented.

The investigating body ensures that adjustments due to these factors do not overlap, thus distorting the result of comparison of export price with normal value of product. The investigating body can request interested parties to provide the information necessary to ensure proper comparison of export price of the product with its normal value.

45. When there are no purchases or sales of the like product in the ordinary course of trade in the market of the exporting third country or due to the low volume of sale of the like product in the ordinary course of trade or because of the particular situation in the

market of exporting third country it is impossible to conduct a proper comparison of the product export price with the price of the like product on the market of exporting third country, export price of product is compared either with the comparable price of the like product, imported from exporting third country to other third country, provided that the price of the like product is representative, or the cost of production for product in the country of origin plus a reasonable amount for administrative, selling and general costs and profits typical for this industry.

46. If the product is imported to the customs territory of the EAEU from third country, which is not a country of its origin, the export price of such product shall be compared with comparable price of like product in the market of third country.

Comparison of the export price for product can be made with comparable price of like product in country of its origin if such product is only transshipped through third country, from which it is exported to the customs territory of the EAEU or this product is not manufactured in this third country or there is not comparable price of like product.

47. In the case when the comparison of export price of product with its normal value, requires conversion of their values from one currency to another, such conversion is made using the official exchange rate on the date of the sale of the product.

If the foreign currency trading was directly linked to the corresponding export supply of the product and was carried out for a certain period, it is necessary to use currency exchange rate used in the sale of currency for a period.

The investigating body does not take into account currency fluctuations and in course of investigation provides exporters with less than 60 calendar days for adjusting their export prices taking into account sustained changes in exchanged rates during investigation.

48. The investigating body, as a rule, determines individual dumping margin for each known exporter and (or) manufacturer of product that provided necessary information for determining individual dumping margin.

49. If the investigating body arrives to a conclusion about unacceptability of determination of individual dumping margin for each known exporter and (or) manufacturer of product on the reason of total number of exporters, manufacturers or



importers of goods, variety of goods or for any other reason, it can use restriction in determination of individual dumping margin, on the basis of appropriate number of interested persons, or determine dumping margin in respect of picking of goods from each exporting third country, that according to information of the investigating body, is statistically representative and can be examined without disturbing course of investigation.

Selection of interested persons for limiting determination of individual dumping margin, specified by the provisions of this paragraph, shall be performed by the investigating body, preferably on the basis of consultations with appropriate foreign exporters, manufacturers and importers of product which is an object of investigation and with their consent.

If the investigating body uses restriction in accordance with the provisions of this paragraph, it determines as well individual dumping margin in relation of each foreign exporter or foreign manufacturer that initially were not selected, but provided necessary information within the period prescribed for its consideration, except cases when number of foreign exporters and (or) foreign manufacturers is so large that individual consideration can lead to infringement of term of appropriate investigation conducting by the investigating body.

Voluntarily submitted responses of such foreign exporters and (or) foreign manufacturers shall not be rejected by the investigating body.

50. If the investigating body uses restriction of determination of individual dumping margin in accordance with the paragraph 48 of this Protocol, amount of dumping margin calculated in relation to foreign exporters and foreign manufactures of product, which is a subject of dumping import, shall not exceed amount of weighted average dumping margin, determined with regard to foreign exporters or foreign manufacturers of product which is a subject of dumped import, selected for determination of individual dumping margin.

51. If exporters or manufacturers of the product under investigation, do not provide information in required form and a timely manner to the investigating body or information that was provided by them cannot be verified or is not true, the investigating body can determine dumping margin on the basis of other available information.

52. In addition to determining individual dumping margin for each known exporter and (or) manufacturer of product, which presented necessary information allowing to determine individual dumping margin, the investigating body can determine a uniform dumping margin for all other exporters and (or) manufacturers of product under investigation, on the basis of the highest dumping margin, determined in course of investigation.

### 3. Determination of normal value

53. Normal value of product is determined by the investigating body based on the price of the like product when it is sold during the period of investigation in the domestic market of the exporting third country in the ordinary course of trade to consumers, who are not parties related to producers and exporters which are residents of such third country, for use in the customs territory of the exporting third country.

In order to determine normal value, the prices of the like product in the sale in the domestic market of the exporting third country to consumers who are parties related to producers and exporters which are residents of such third country can be taken into account if it is found that this relation does not affect the pricing of the foreign producer and (or) the exporter.

54. The volume of sales of the like product in the ordinary course of trade in the domestic market of the exporting third country is considered as sufficient to determine the normal value of the product if that amount is not less than 5 percent of total exports of the product to the customs territory of the EAEU from exporting third country.

The lower volume of sales of the like product in the ordinary course of trade is considered acceptable for determining the normal value of the product, if there is evidence that this amount is sufficient to ensure proper comparison of the export price of the product with the price of the like product in the ordinary course of trade.

55. During determination of the normal value of the product in accordance with paragraph 53 of this Protocol the price of the product in its sales to customers in domestic market of the exporting third country is a weighted average price at which the like product is sold to customers during the period of investigation, or the price of the product on each of its sales to customers within this period.

56. Sales of the like product in the domestic market of the exporting third country or third country exporting to any other third country at prices below cost of production units of the like product including administrative, selling and general costs may be disregarded in determining of the normal value of the product only if the investigating body determines that the sale of the like product in the period of investigation is carried out in large volume and at prices that do not provide reimbursement of all costs during this period.

57. If the price of the like product, which at the time of its sale below cost of production units of the like product including administrative, selling and general costs, exceeds the weighted average cost of production of the product unit including administrative, selling and general costs in the period of investigation, such a price is considered as providing reimbursement of all expenses during the period of investigation

58. Sale of the like product at prices below cost of production including administrative, selling and general costs is carried out in a significant amount, if the average weighed price of the like product on transactions, taken into account in determining the normal value of the product, is below the average unit cost of production taking into account the administrative, selling and general costs or volume of sales at prices below cost is at least 20 percent of the sales volume of transactions taken into account in determining the normal value of the product.

59. Production cost per unit of the like product, taking into account administrative, selling and general costs shall be calculated on the basis of data provided by the exporter or producer of product, provided that such data are consistent with generally accepted principles and accounting rules and reporting in the exporting third country and fully reflect the costs associated with the production and selling product.

60. The investigating body shall consider all available evidence at its disposal of the correct allocation of production costs, administrative, selling and general costs, including data submitted by the exporter or producer of the product under the investigation, provided that such allocation of costs is usually practiced by that exporter or producer of product, particularly with regard to establishing an appropriate period of amortization, deductions for investments and cover other costs of production development.

61. Costs of production, administrative, sales and general expenses are adjusted for one-time costs associated with the development of production, or the circumstances under which the costs in the period of investigation influence operations carried out during the organization of production. Such adjustments should reflect the costs at the end of the period of production organization, and if the period of production organization exceeds the period of investigation - for the most recent phase of production organization, which falls during the investigation.

62. The total quantitative indicators of administrative, selling and general costs and profits typical for this sector are defined based on actual data on the production and sale of like product in the ordinary course of trade, provided by the exporter or producer of the product which is subject to the dumped imports.

If it is impossible to determine such aggregated quantitative indicators in this way, they can be identified on the basis of:

1) The actual amounts received and expended by the manufacturer or exporter of the product under investigation in connection with the manufacture and sale of the same category of product in the domestic market of the exporting third country;

2) The weighted average of the actual amounts received and expended in connection with the production and sale of like products on the domestic market of the exporting third country by other exporters or producers of such products;

3) Any other method, provided that the amount of profit that is determined in this way does not exceed the amount of profit, typically obtained by other exporters or producers in the same category of product when sold on the domestic market of the exporting third country.

63. In the case of dumped imports from the exporting third country in which domestic market prices are regulated directly by the state or a state monopoly on foreign trade, normal value of product can be determined on the basis of price or calculated value of like product in an appropriate third country (comparable for purposes of investigation to the specified exporting third country) or the prices of like product when it is delivered from such third country for export.

If the determination of normal value of the product in accordance with this clause is not possible, the normal value of product can be determined on the basis of the price paid or payable for the same product on the customs territory of the EAEU and adjusted considering the profit.

#### 4. Determination of export price

64. Export price is determined on the basis of data of its sales during the period of investigation.

65. In the absence of data on the export price of the product, which is the subject of the dumped imports, or if the investigating body has a reasonable doubt about the accuracy of information on export prices of such product due to the fact that the exporter and importer of the product are related parties (including the connection of each of them with a third party) or in the presence of restrictive business practices in the form of collusion in respect of the export price of such product, the export price may be calculated based on the price at which the imported product was first resold to an independent buyer, or another method, which can be determined by the investigating body, if the imported product is not resold to an independent buyer or not resold in the form in which it was imported into the customs territory of the EAEU. At the same time for the purpose of comparison of export price of product with its normal value the expenses (including custom duties and taxes), paid during the period between import and resale of product as well as profits are also taken into account.

#### 5. Determination of injury to the industry of the member States as a result of dumped imports

66. For the purposes of this section injury to the industry of the member States is determined as material injury to the industry of the member States, the threat of its injury or a significant delay in creation of the sector of economy of the member States.

67. Injury to the industry of the member States as a result of dumped imports is determined based on the analysis of the volume of dumped imports, the effect of such imports on prices of the like product on the market of the member States and the producers of the like product in the member States.

68. Period of investigation, during which the information for the purpose of determination of the existence of injury to the sector of economy of the member States as a result of dumped imports is analyzed, is determined by the investigating body.

69. Analyzing the volume of dumped imports the investigating body shall determine whether there was a significant increase in dumped imports of the product under investigation (in absolute terms or relative to production or consumption of the like product in the member States).

70. Analyzing the impact of dumped imports on prices of the like product on the market of the member States the investigating body shall determine:

1) whether the prices of the product which is the subject of the dumped imports are significantly lower than prices of the like product on the market of the member States;

2) whether the dumped imports has resulted in a significant reduction of prices of the like product on the market of the member States;

3) whether a significant increase in prices of dumped imports prevented the increase of prices of the like product in the market of the member States, which would have occurred in the absence of such imports.

71. If the subject of investigations conducted at the same time is the import of the product into the customs territory of the EAEU from more than one exporting third country, the investigating body may assess the cumulative effect of such imports only if it determines the following:

1) the dumping margin determined for the import of the product under investigation, from each exporting third country is greater than the minimally acceptable margin of dumping, and the volume of these imports from each exporting third country is not negligible with regard to the provisions of paragraph 223 of this Protocol;

2) estimation of the overall impact of imports of product is possible according to the conditions of competition between imported products and the conditions of competition between imported product and the like product produced in the member States.

72. Analysis of the impact of dumped imports on the industry of the member States includes the estimation of all the economic factors relevant to the industries of the member States, including:

the degree of the sector of economy recovery of the member States after the impact of the dumped or subsidized imports;

actual or possible future decline in production, sales of product, its market share in the member States, profits, productivity, income from investments or raised capacity utilization;

factors affecting the prices of product on the market of the member States;

the size of the margin of dumping;

actual or possible future negative impact on growth rates of production, stocks of product, employment, wages, the ability to attract investment and financial condition.

At the same time no one or several factors can have decisive role for the purpose of establishing injury of the industry of the member States as a result of dumped imports.

73. The conclusion about the presence of a causal link between dumped imports and injury to the industry of member States should be based on the analysis of all relevant evidence and information related to the matter and available to the investigating body.

74. The investigating body other than the dumped imports also examines any other known factors, that may have caused injury to the sector of economy of the member States in the same period.

Factors to be considered as relevant include, inter alia, the volume and prices of imported product that were not sold at dumping prices, contraction in demand or changes in the structure of consumption, restrictive trade practices, technological advances, as well as export performance and productivity of industry of the member States.

Injury caused by these factors shall not be referred to the injury to the industry of the member States due to the dumped imports in the customs territory of the EAEU.

75. The impact of dumped imports on the industry of the member States shall be evaluated regarding the production of the like product in the member States, if the available data permit to distinguish the production of the like product on the basis of such criteria as the production process, the sales of the like product, and profit.

If the available data do not allow allocating the production of the like product, the impact of dumped imports on the industry of the member States shall be determined with

respect to estimated production of the narrowest group or range of products, which include the like product, and for which data are available.

76. Determining the threat of material injury to the sector of economy of the state-members due to the dumped imports the investigating body shall take into account all available factors, including the following:

1) The growth of dumped imports, indicating the real possibility of further increase in such imports;

2) The availability for exporter of the product, that is the subject of the dumped imports, of sufficient export capacity, or the apparent inevitability of its increase, which indicates the real possibility of the increase in the dumped imports of the product, taking into account the ability of other export markets to take any additional exports;

3) The level of prices of the product under investigation, if such prices could reduce or contain the price of the like product on the market of the member States, and further growth in demand for the product under investigation;

4) The availability of stocks of the product under investigation.

77. The decision on the threat of material injury to the industry of the member States shall be made if in the course of the investigation based on the analysis of the factors referred to in paragraph 76 of this Protocol the investigating body came to a conclusion about the inevitability of the continuation of the dumped imports and injurious effect of such import on the industry of member-industry if the antidumping measure are not imposed.

6. The imposition of provisional antidumping duty

78. If the information obtained prior to completion of investigation indicates the presence of dumped imports and the resulting injury to the industry of the member States, the Commission on the basis of a report of the investigating body, specified in the paragraph 7 of this Protocol, takes a decision on the application of antidumping measure by imposing provisional antidumping duty to prevent injury to the industry of member States caused by the dumped imports during the period of investigation.

79. Provisional antidumping duty cannot be imposed earlier than 60 calendar days from the date of initiation of the investigation.



80. The rate of the provisional antidumping duty shall be sufficient to eliminate the injury to the industry of the member States, but shall not exceed the level of pre-calculated margin of dumping.

81. If the rate of the provisional antidumping duty is equal to the level of the previously calculated margin of dumping, the period of application of the provisional antidumping duty shall not exceed four months, except if that period is extended to 6 months based on the request of exporters, whose share in the volume of dumped imports of the product under investigation constitutes a major part..

82. If the rate of the provisional antidumping duty is less than previously calculated dumping margin, the period of application of the provisional antidumping duty shall not exceed 6 months, except if that period is extended to 9 months upon request of exporters, whose share in the volume of dumped imports of the product under investigation constitutes a major part. .

83. If as the result of the investigation the investigating body determines that there are no grounds for the imposition of antidumping measure or taken a decision on non-use of antidumping measure in accordance with the paragraph 272 of this Protocol, the amount of the provisional antidumping duty shall be refunded to the payer in the manner provided in the appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States there are no grounds for the introduction of anti-dumping measures or the adoption of the Commission decision on the non-use of anti-dumping measures.

84. If upon results of investigation, taken a decision on application of antidumping measure on the basis of existence of threat of injury or significant slowdown in creation of sector of economy of member States, amounts of provisional antidumping duty shall be refunded to payer in the manner specified in the appendix to this Protocol.

85. If upon results of investigation, taken a decision on application of antidumping measure on the basis of existence of injury to sector of economy of member States on the condition that failure to introduce provisional antidumping duty would lead to determination of existence of injury to sector of economy of member States, amounts of provisional antidumping duty as of the moment of entry into force of decision on

application of antidumping measure shall be entered and distributed in the manner specified in the appendix to this Protocol, taking into account provisions of paragraphs 86 and 87 of this Protocol.

86. If upon the results of investigation introduction of lower rate of antidumping duty than provisional antidumping duty rate, is deemed as expedient, amounts of provisional antidumping duty corresponding to amount of antidumping duty calculated at established rate of antidumping duty, shall be entered and distributed in the manner specified in the appendix to this Protocol.

Amounts of provisional antidumping duty that exceed amount of antidumping duty calculated at established rate of antidumping duty shall be refunded to payer in the order prescribed in the appendix to this Protocol.

87. If upon results of investigation introduction of a higher antidumping duty rate than provisional antidumping duty rate is considered as expedient, difference between amounts of antidumping duty and provisional antidumping duty shall not be charged.

88. Provisional antidumping duty shall be applied on the condition of simultaneous continuation of investigation.

89. Decision to introduce provisional antidumping duty shall be taken, as a rule, not later than 7 months as of the date of investigation start.

#### 7. Adoption of price undertakings by exporter of the product under investigation

90. Investigation may be suspended or terminated by the investigating body without the introduction of provisional antidumping duty or antidumping duty upon receiving from the exporter of the product under investigation, price undertakings in written form about the revise of prices for the product or cessation of exports of the product to the customs territory of the EAEU at prices below its normal value (if there are any related to the exporter parties in the member States, the statements of these persons on support of these undertakings are required as well), if the investigating body comes to the conclusion that acceptance of such undertakings will remove injury caused by dumped import, and the Commission take a decision on their approval.

Level of prices for the product according to these undertakings shall be not higher than it is necessary for eliminating dumping margin.

Increase of the product price can be less than dumping margin if such increasing is sufficient for the elimination of the injury to the sector of economy of member States.

91. Decision to approve price undertakings shall not be taken by the Commission until the investigating body comes to the preliminary conclusion about the existence of dumping and injury to the sector of economy of member States caused by it.

92. Decision to approve price undertakings shall not be taken by the Commission, if the investigating body comes to the conclusion about unacceptability of their approval due to a large number of actual and potential exporters of the product or on any other reasons.

The investigating body informs as possible exporters about the reasons why approval of their price undertakings was considered unacceptable and gives exporters possibility to make their comments in this connection.

93. The investigating body sends to each exporter that accepted price undertakings requests for the non-confidential version in order to be able to present it to the interested parties upon receiving a corresponding request.

94. The investigating body can offer exporters to accept price undertakings, but cannot require their acceptance.

95. If price undertakings are approved by the Commission, antidumping investigation may be continued at the request of exporter of product or upon decision of the investigating body.

If according to the results of investigation the investigating body comes to the conclusion about absence of dumping or injury to the sector of economy of member States caused by it, exporter that took price undertakings, is automatically released from such undertakings, except case when this conclusion to a large degree is a result of existence of such undertakings. If made conclusion is largely a result of existence of price undertakings, the Commission may take decision that such undertakings shall remain in force during required period of time.

96. If according to the results of investigation the investigating body comes to the conclusion about existence of dumping and injury to sector of economy of member States caused by it, price undertakings taken by exporter continue to act in accordance with their terms and provisions of this Protocol.

97. The investigating body is entitled to request from the exporter information concerning performance of price undertakings by exporter, and also permit for verification of such information.

Failure to provide requested information within the period prescribed by the investigating body as well as disagreement for verification of such information shall be considered as exporter's violation of price undertakings accepted by him.

98. In case of exporter's violation or withdrawal of price undertakings, the Commission can take a decision on application of antidumping measure by the introduction of provisional antidumping duty if the investigation is not yet completed, or antidumping duty if final results of investigation show that there are grounds for its introduction.

Exporter, in case of violation by him of accepted price undertakings, shall be provided with ability to make comments in respect of such violation.

99. Rate of provisional antidumping duty or antidumping duty that can be introduced in accordance with the paragraph 98 of this Protocol, shall be determined in the act of the Commission on approval of price undertakings.

#### 8. Introduction and application of antidumping duty

100. Antidumping duty is applicable to product, supplied by all exporters and being a subject of dumped import, causing injury to sector of economy of member States, except product supplied by those exporters, price undertakings of which were approved by the Commission in accordance with provisions of the paragraphs 90-99 of this Protocol.

101. Amount of antidumping duty shall be sufficient for eliminating injury to sector of economy of member States but not higher than amount of calculated dumping margin.

The Commission can take a decision on introduction of antidumping duty at the rate less than rate of calculated dumping margin, if such rate is sufficient for eliminating injury to sector of economy of member States.

102. The Commission shall determine individual amount of antidumping duty rate with regard of product supplied by each exporter or manufacturer of product which is a subject of dumped import, for which individual dumping margin was calculated.

103. In addition to determining of individual amount of antidumping duty rate, specified in the paragraph 102 of this Protocol, the Commission determines a uniform antidumping duty rate for product supplied by all other exporters or manufacturers of product from exporting third country, for whom individual dumping margin was not calculated, on the basis of the highest dumping margin, calculated in course of investigation.

104. Antidumping duty may be levied on products placed under customs procedures providing application of antidumping measure, prior to the date of introduction of provisional antidumping duties, but not earlier than 90 calendar days, if upon results of investigation in respect of the product it was found that:

1) there is a history of dumped imports which caused injury or that the importer was, or should have been, aware that the exporter delivers the product at a price below its normal value, and that such import would cause injury, and

2) the injury is caused by substantially increased dumped imports in a relatively short period of time which in light of the duration and the volume as well as other circumstances (including rapid growth of inventories of the imported products) can significantly undermine the remedial effect of the anti-dumping duty to be applied, under the condition that the importers of the product concerned shall be given an opportunity to comment.

105. The investigating body after the date of initiation of the investigation shall publish notification in official sources provided by the Treaty containing a warning about possible application of an antidumping duty on imports of the product under investigation in accordance with paragraph 104 of this Protocol.

Decision on publication of such notification is taken by the investigating body upon the request of the sector of economy of the member States, which contains sufficient evidences of fulfillment of the conditions, specified in paragraph 104 of this Protocol, or by the investigating body's own initiative provided there are such evidences in its disposal.

Anti-dumping duty shall not be applied to the products placed under the customs procedures providing application of antidumping duties before the date of the official publication of notification provided by this paragraph.

106. The legislation of the member States may establish additional means of notification of interested parties concerning possible application of antidumping duty in accordance with paragraph 104 of this Protocol.

#### 9. Duration and review of antidumping measure

107. Antidumping measure shall be applied upon decision of the Commission in the amount and within the time necessary for elimination of injury to sector of economy of member States arising out of dumped imports.

108. Duration of antidumping measure shall not exceed 5 years from the moment of start of application of such measure or from the date of completion of review, which was conducted in connection with changed circumstances and at the same time was concerned analysis of dumped import and associated with it injury to sector of economy of member States or due to expiration of antidumping measure's duration.

109. Due to expiration of duration of antidumping measure, review shall be conducted on the basis of written application, submitted in accordance with the provisions of paragraphs 186-198 of this Protocol, or upon the initiative of the investigating body.

Due to expiration of term of validity of antidumping measure review shall be conducted if application contains information on possibility to renew or continue dumped import and infliction of injury to sector of economy of member States upon termination of antidumping measure.

Application for conducting review in connection with expiration of antidumping measure shall be submitted no later than six months before expiry of antidumping measure.

Review shall be initiated prior to expiration of antidumping measure and terminated within 12 months as of the date of its commencement.

Prior to completion of review conducted in accordance with the provisions of this paragraph, application of antidumping measure shall be prolonged upon decision of the Commission. Within the period for which application of corresponding antidumping measure is prolonged, in the manner, specified for charging of provisional antidumping duties, it is necessary to pay antidumping duties at the rates of antidumping duties, which

were determined due to application of antidumping measure, duration of which shall be prolonged due to conducting of review.

If upon the results of review due to expiration of antidumping measure, the investigating body determine that there are no grounds for application of antidumping measure, or was taken decision on non-use of antidumping measure in accordance with the paragraph 272 of this Protocol, amounts of antidumping duty, charged in the manner prescribed for charging of provisional antidumping duties within the period for which application of antidumping measure was prolonged, shall be refunded to payer in the manner specified in the appendix to this Protocol.

The investigating body, shall in due time inform customs authorities of member States about taking decisions, which are specified in subparagraph 6 of this paragraph.

Effect of antidumping measure shall be extended by the Commission in the event that upon the results of review due to expiration of antidumping measure, the investigating body determines ability to renew or continue dumping import and inflict injury to sector of economy of member States. From the date of entry into force of act of the Commission on prolongation of antidumping measure, amounts of antidumping duties, charged in the manner specified for charging of provisional antidumping duties within the period for which application of antidumping measure was prolonged, shall be entered and distributed in the manner specified in the appendix to this Protocol.

110. At the request of interested person in case if after introduction of antidumping measure no less than one year passed, or by the initiative of the investigating body, review can be conducted in order to determine expediency of continuing to apply antidumping measure and (or) reconsider it, including review of individual amount of antidumping duty rate, due to changed circumstances.

Depending on the purposes of filing application on conducting the stated review, such application shall include evidence that due to changed circumstances:

continued use of antidumping measure is not required for counteract to dumped import and elimination of injury to sector of economy of member States due to dumped import; or

existing amount of antidumping measure exceeds amount sufficient for counteract to dumping import and elimination of injury to sector of economy of member States due to dumping import; or

existing antidumping measure is not sufficient for counteract to dumping import and elimination of injury to sector of economy of member States due to dumped import.

Review conducted in accordance with this paragraph, shall be terminated within 12 months as of the date of its commencement.

111. Review may also be conducted in order to determine individual dumping margin for exporter or manufacturer, which did not carry out delivery of product that is a subject of dumped import, within the period of investigation.

Such review can be initiated by the investigating body, in case if the exporter or manufacturer submit application for conducting of it, containing evidence that exporter or manufacturer of product is not related with exporters and manufacturers for which antidumping measure is applied, and that this exporter or manufacturer delivers product under investigation, to the customs territory of the EAEU or associated by contractual obligations on delivery of significant amounts of such product to the customs territory of the EAEU, termination or withdrawal of which will cause to significant losses or significant penalties for this exporter or manufacturer of product.

During review in order to determine individual dumping margin for exporter or manufacturer in relation to deliveries to the customs territory of the EAEU of product under investigation, this exporter or manufacturer do not pay antidumping duty until taking decision on results of such review. At the same time in respect of such product, being imported (imported) to the customs territory of the EAEU within the period of conducting of review, payment of antidumping duty shall be made in the manner prescribed by the legal acts of the EAEU, which regulate customs relations, to secure payment of import customs duties taking into account peculiarities determined in this paragraph.

The investigating body shall in due time inform customs authorities of member States about date of review commencement.



Payment of antidumping duty shall be provided in monetary assets (money) in the amount of antidumping duty calculated at uniform rate of antidumping duty determined in accordance with the paragraph 103 of this Protocol.

If upon results of review, has been taken a decision on application of antidumping measure, for the period of conducting of such review, antidumping duty shall be paid. From the date of entry into force of decision on application of antidumping measure, taken upon the results of review, amount of collateral shall be offset on account of payment of antidumping duty, in the amount, determined on the basis of established rate of antidumping duty, and entered and distributed in the manner, determined in the appendix to this Protocol, taking into account provisions of this paragraph.

If upon results of review introduction of a higher rate of antidumping duty than the rate on the basis of which security amount for payment of antidumping duty is determined, is considered expedient, difference between amounts of antidumping duty calculated at the rate determined upon results of review, and uniform antidumping duty rate shall not be charged.

Amount of collateral exceeding amount of antidumping duty, calculated at established rate of antidumping duty, shall be refunded to payer in the manner determined by the customs legislation of the EAEU.

Review provided by this paragraph shall be conducted in the shortest possible period of time, and in any case this period cannot exceed 12 months.

112. Provisions of the Section VI of this Protocol relating to submission of evidence and conducting of antidumping investigation, shall be applied for reviews, provided by the paragraphs 107-113 of this Protocol, taking into account corresponding differences

113. Provisions of the paragraphs 107-112 of this Protocol shall be applied to undertakings taken by exporter in accordance with the paragraphs 90-99 of this Protocol, taking into account corresponding differences.

#### 10. Determining of circumvention of antidumping measure

114. For the purposes of this Protocol circumvention of antidumping measure is considered as change in the way of delivery of goods for avoiding payment of antidumping duty or performance of price undertakings taken by exporter.

115. Review for the purpose of determination of circumvention of antidumping measure shall be conducted on the basis of application of interested person or upon the initiative of the investigating body.

116. Application specified in the paragraph 115 of this Protocol shall contain evidence of:

1) circumvention of antidumping measure;

2) neutralization of antidumping measure due to circumvention of it and impact of this factor on amount of production and (or) sale and (or) price of like product;

3) availability, as a result of circumvention of antidumping measure, of dumped import of product (integrated parts and (or) derivatives of such product). At the same time for normal value of product, its integrated parts or derivatives, taken their normal value, determined in the course of investigation, upon results of which the Commission introduced antidumping measure, taking into account corresponding adjustments for the purpose of comparison.

117. Review in order to determine circumvention of antidumping measure shall be completed within 9 months as of its commencement date.

118. For the period of review conducted in accordance with the paragraphs 115-120 of this Protocol, the Commission can in the manner determined for collection of provisional antidumping duties, introduce antidumping duty for integrated parts and (or) derivatives of product, which is a subject of dumped import, imported to the customs territory of the EAEU from exporting third country, as well as for product which is a subject of dumped import, and (or) its integrated parts and (or) derivatives, imported to the customs territory of the EAEU from any other exporting third country.

119. If upon the results of review conducted in accordance with the paragraphs 115-120 of this Protocol, the investigating body do not determine circumvention of antidumping measure, amounts of antidumping duty, paid in accordance with the paragraphs 118 of this Protocol and in the manner specified for collection of provisional antidumping duties, shall be refunded to payer in the manner determined in the appendix to this Protocol.

The investigating body shall in due time inform the customs authorities of member States on taking decisions, specified in the subparagraph 1 of this paragraph.

120. If upon the results of review conducted in accordance with paragraphs 115-120 of this Protocol circumvention of antidumping measure applied in accordance with this Protocol is determined, the Commission can apply antidumping measure to integrated parts and (or) derivatives of product, which is a subject of dumped import, imported to customs territory of the EAEU from exporting third country, as well as to product, which is a subject of dumped import, and (or) integrated parts and (or) derivatives, imported to the customs territory of the EAEU from other exporting third country. From the date of entry into force of the act of Commission on introduction of indicated in this paragraph antidumping measure, amounts paid in the manner determined for collection of provisional antidumping duties, antidumping duties, shall be entered and distributed in the manner, determined in the appendix to this Protocol.

## V. Countervailing Measures

121. Subsidy means:

1) financial support by the subsidizing authority that provides the recipient of subsidy with additional benefits, rendered within the territory of exporting third country in form of:

direct transfer of monetary funds (including in form of grants, loans and share purchase) or undertakings on transfer of such funds (including in form of loan guarantees);

withdrawal of funds or total or partial waiver of collection of funds, which had to be enrolled into income of exporting third country, including through provision of tax credits, excluding cases of exemption of exported product from taxes and duties that are being collected from like product, intended for domestic consumption, or reduction or refund of such taxes or duties in the amounts, not exceeding actually paid amounts;

preferential or free provision of goods or services, except goods or services intended for support and development of common infrastructure, i.e. infrastructure, not related to specific manufacturer and (or) exporter;

preferential purchase of goods.

2) any form of income or prices support, which provides the recipient of subsidy with additional preferences, direct or indirect result of which is the increase in exports of products from exporting third country or reduction of import of like product to this third country;

1. Principles of classification of exporting third country subsidy to specific subsidies

122. Exporting third country subsidy is classified as specific if the use of subsidy is allowed to certain companies by the subsidizing body or legislation of exporting third country.

123. In this Protocol individual organizations are considered as specific manufacturer and (or) exporter, or specific sector of economy of exporting third country or group (union, association) of manufacturers and (or) exporters or sectors of economy of exporting third country.

124. Subsidy is specific if number of individual organizations permitted for use of this subsidy, is restricted by organizations located in a particular geographic region, which is under the jurisdiction of subsidizing body.

125. Subsidy is not specific if legislation of exporting third country or subsidizing body establishes general objective criteria, which determine unconditional right to receive subsidy and its amount (including, depending on number of workers, engaged in production of products or volume of output) and strictly enforced.

126. Anyway, subsidy of exporting third country is a specific subsidy, if provision of such subsidy is accompanied by:

- 1) restriction in number of individual organizations that are allowed to use subsidy;
- 2) privileged use of subsidy by individual organizations;
- 3) providing of disproportionately large amounts of subsidy to individual organizations;

4) subsidizing body's choice of preferential method of providing subsidy to individual organizations. .

127. Any subsidy of exporting third country is a specific subsidy, if:

1) in accordance with the laws of exporting third country or in fact as the only condition or one of several conditions, subsidy is associated with exports of product. The subsidy is in fact related to exports of product if the provision according to legislation of exporting third country is not associated with export of product, in practice associated with occurred or possible in the future export of product or with export revenues. The mere fact of provision of subsidies to exporting enterprises does not mean provision of subsidy, related with export of goods within the meaning of this paragraph;

2) a subsidy is related to the use of products produced in exporting third country rather than imported product, in accordance with legislation of exporting third country or actually as an only condition or one of several conditions.

128. The decision of the investigating body on classifying subsidy of the exporting third country as specific shall be based on evidence.

## 2. Principles of defining amount of specific subsidy

129. The size of specific subsidy is based on the size of benefit gained by recipient of such subsidy.

130. The size of the benefits gained by the recipient of the specific subsidy is determined based on the following principles:

1) participation of a subsidizing body in company capital is not considered as providing benefit, if such participation cannot be considered as inconsistent with the usual investment practice (including the provision of risk capital) in the territory of exporting third country;

2) the credit provided by the subsidizing body is not considered as provision of benefit, if there is no difference between the amount the company pays the borrower for government loan and the amount that it would have paid for a comparable commercial loan which the company can receive on the credit market of the exporting third country. Otherwise, the benefit is the difference between these amounts;

3) the loan guarantee by subsidizing body is not considered as provision of benefit, if there is no difference between the amount that the recipient company pays for the guarantee on a loan guaranteed by subsidizing body and the amount it would pay for comparable commercial loan without government guarantee. Otherwise the benefit is the difference between these amounts, adjusted for difference in fees;

4) delivery of goods or services or purchase of goods by subsidizing body is not considered as provision of benefit, if such goods and services are delivered for less than adequate payment or purchases are not made for more than adequate payment. The adequacy of payment is determined based on prevailing market conditions of purchases and sales of such goods and services on the market of exporting third country, including price, quality, availability, liquidity, transportation and other conditions of purchase and sale of goods.

3. Determination of injury to sector of economy of member States caused by subsidized imports

131. For the purposes of this section, the injury to the sector of economy of member States is considered as a material injury, threat of such injury or significant retardation in the establishment of sector of economy of member States.

132. Injury to the sector of economy of member States caused by the subsidized imports is determined based on the analysis of the subsidized imports and the impact of subsidized import on prices of the like product on the market of member States and the producers of the like products in member States.

133. Period of investigation for which information for determination of injury to sector of economy of member States caused by subsidized import is analyzed, shall be determined by the investigating body.

134. While analyzing volume of the subsidized import, the investigating body determines whether there has been a significant increase in subsidized imports (in absolute terms or relative to production or consumption of the like product in member States).

135. If the subject of investigations conducted simultaneously is subsidized imports of any product to the customs territory of the EAEU from more than one exporting third

country, the investigating body may assess the cumulative effect of such import only if it determines that:

1) the amount of subsidy in each exporting third country for certain product is more than 1 percent of its value, and amount of subsidized import from each exporting third country is not negligible in accordance with paragraph 213 of this Protocol;

2) assessment of the overall impact of imports of product which is the subject of subsidized imports, is a possible taking into account the conditions of competition between imported product and the conditions of competition between imported product and the like product produced in the member States.

136. When analyzing impact of the subsidized import on prices of like product on the market of member States the investigating body determines:

1) whether the prices of product that is the subject of the subsidized imports are significantly lower compared to the prices of the like product on the market of member States;

2) whether the subsidized imports led to a significant reduction in prices of the like product on the market of the member States;

3) whether subsidized import significantly prevents increase in prices of the like product in the market of member States, which would have occurred in the absence of such imports.

137. Analysis of impact of subsidized import on the sector of economy of member States consists of evaluation of the economic factors relevant to the sector of economy of member States, including:

1) the actual or possible in the near future reduction in production, sales of a product, share in the market of the member States, profits, productivity, income from investments or utilization of production capacities;

2) factors affecting the prices of product in the market of member States;

3) the actual or possible future negative impact on cash flows, stocks of product, level of employment, wages, rates of growth in production and the ability to attract investments.

138. The impact of subsidized import on the sector of economy of member States is evaluated with respect to estimated production of the like product in the member States, if the available data allow distinguishing the production of the like product on the basis of such criteria as the production process, the sales of product by its producers and profit.

If the available data do not allow allocating the production of the like product, the impact of subsidized import on sector of economy of member States shall be assessed with respect to estimated production of the narrowest group or range of goods, which include the like product and for which the data are available.

139. In determining threat of material injury to the sector of economy of member States caused by the subsidized import, the investigating body considers all available factors, including:

- 1) the nature, amount of subsidy or subsidies and their possible impact on trade;
- 2) the growth rate of subsidized imports, indicating the real possibility for further increase in such import;
- 3) availability for the exporter of the product subject to subsidized imports of sufficient export capacity or the apparent inevitability of their increase which indicate the real possibility of increase in the subsidized import of the product, taking into account the ability of other export markets to take any additional exports of given product;
- 4) the price level for product subject to subsidized imports, if such prices could reduce or contain the growth of prices for the like product on the market of member States and further growth in demand for the product subject to the subsidized imports;
- 5) exporter's stocks of the product subject to the subsidized imports.

140. The decision on the existence of the threat of material injury to the sector of economy of member States shall be taken if in course of investigation upon results of analysis of factors referred to in paragraph 139 of this Protocol, the investigating body came to the conclusion of the inevitability to continue subsidized imports and causation of material injury to such import to the sector of economy of member States in case of non-introduction of countervailing measures.



141. Determination of existence of casual link between subsidized import and injury to the sector of economy of member States as a result of such import shall be based on the analysis of all relevant and available to the investigating body evidence and information.

142. The investigating body, in addition to the subsidized import, analyses other known factors, which at the same time have resulted in injury to the sector of economy of member States.

This injury to the sector of economy of member States shall not be attributed by the investigating body to the injury to the sector of economy resulting from the subsidized imports.

#### 4. Introduction of provisional countervailing duty

143. If the information received by the investigating body prior to the termination of the investigation, indicates the existence of subsidized imports and injury to the sector of economy of member States caused by such imports, the Commission on the basis of the investigating body's report, specified in paragraph 7 of this Protocol, takes a decision on the application of countervailing measure by means of imposition of a provisional countervailing duty for up to 4 months in order to prevent injury to the sector of economy of member States caused by subsidized import in the period of of investigation.

144. The provisional countervailing duty cannot be imposed earlier than 60 calendar days from the date of initiation of the investigation.

145. The provisional countervailing duty is imposed at the rate equal to the previously calculated value of a subsidy of a particular exporting third country per unit of the subsidized and exported product.

146. If upon the results of the investigation it is determined that there are no grounds for the imposition of countervailing measure, or the decision on non-use of countervailing measure in accordance with the paragraph 246 of this Protocol was taken, the amount of the provisional countervailing duty shall be refunded to the payer in the manner defined in the appendix to this Protocol.

The investigating body shall promptly inform customs authorities of the member States on taking decisions stated in subparagraph 1 of this paragraph.

147. If as the results of investigation the decision on the application of countervailing measure is made on the basis of the existence of threat of injury or significant retardation in the establishment of the sector of economy of member States, the amounts of provisional antidumping duty shall be refunded to payer in the manner, specified in the appendix to this Protocol.

148. If as the results of investigation, the decision on application of countervailing measure on the basis of the existence of injury to the sector of economy of member States or threat of such injury to the sector of economy of member States (provided that non-introduction of provisional antidumping duty would result in the existence of injury to the sector of economy of member States) amounts of provisional countervailing duty from the date of entry into force of the decision on application of countervailing measure shall be entered and allocated in the manner, specified in the appendix to this Protocol, subject to the provisions of paragraphs 149 and 150 of this Protocol.

149. If as the results of the investigation introduction of lower rate of countervailing duty than rate of provisional countervailing duty is considered appropriate, amounts of provisional countervailing duty, corresponding to the amount of countervailing duty, calculated at the determined rate of countervailing duty shall be credited and allocated in the manner, specified in the appendix to this Protocol.

The amounts of provisional countervailing duty exceeding the amount of countervailing duty, calculated at the established rate of countervailing duty shall be refunded to the payer in the manner, specified in the appendix to this Protocol.

150. If as the results of the investigation it is considered appropriate to impose a higher rate of countervailing duty than rate of provisional countervailing duty, the difference between the amounts of countervailing duty and provisional countervailing duty shall not be charged.

151. The provisional countervailing duty shall be applied provided the simultaneous continuation of the investigation.

152. Provisional countervailing duty is applied in accordance with the paragraphs 164-168 of this Protocol.

153. Decisions on the imposition of the provisional countervailing duty are taken, as a rule, not later than 7 months from the date of the initiation of the investigation.

5. The adoption of voluntary undertakings by subsidizing third country or exporter of the product under investigation

154. The investigation may be suspended or terminated without the imposition of countervailing duty when the Commission takes a decision to approve one of the following voluntary undertakings received by the investigating body (in the written form):

exporting third country agrees to eliminate or reduce subsidies or to take appropriate measures to eliminate the consequences of subsidies or

exporter of the product under investigation, agrees to revise prices for such product that was established by that exporter (if there are any related parties with the exporter in member States these parties shall provide support of the exporter's undertakings to revise prices) so that as a result of analysis of undertakings adopted by the exporter the investigating body finds that acceptance of such voluntary undertakings will eliminate injury to the sector of economy of member States.

According to these undertakings the increase in price of the product under investigation shall not exceed the size of specific subsidy of exporting third country, calculated per unit for the subsidized and exported product.

The increase in price of the product under investigation may be smaller than the size of specific subsidy of exporting third country, calculated per unit for the subsidized and exported product, if such an increase is sufficient to remove the injury to the sector of economy of member States.

155. The decision to approve voluntary undertakings is not accepted by the Commission until the investigating body comes to a preliminary conclusion about the existence of subsidized import and the resulting injury to the sector of economy of member States.

The Commission does not take decisions on the approval of voluntary undertakings of the exporter of product under investigation until it obtains the consent of the authorized body of exporting third country for the acceptance by exporters of undertakings, specified in the third subparagraph of the paragraph 154 of this Protocol.

156. The decision to approve voluntary undertakings is not accepted by the Commission, when the investigating body comes to a conclusion about the unacceptability of their approval due to the large number of actual or potential exporters of the product under investigation or for other reason.

If it is possible the investigating body notifies exporters the reasons why their voluntary undertakings have not been accepted, and provides exporters with opportunity to comment.

157. The investigating body shall send to each exporter and the authorized body of exporting third country that took voluntary undertakings a request for non-confidential version of such undertakings in order to be able to provide it to interested persons.

158. The investigating body proposes to the exporting third country or the exporter of the product under investigation to accept voluntary undertakings, but cannot require their acceptance.

159. If the Commission takes a decision on approval of voluntary undertakings the investigation in respect of existence of the subsidized imports and resulting injury to the sector of economy of member States can be continued upon request of the exporting third country or on the basis of decision of the Commission.

If upon the results of investigation the investigating body come to conclusion about the absence of subsidized import or the injury to the sector of economy of member States, exporting third country or exporters who took the voluntary undertakings are automatically exempt from such undertakings, except for the case where the above conclusion to a great extent is a result of existence of such undertakings. If the conclusion that was made to a great extent as a result of existence of voluntary undertakings, the Commission may take a decision that such undertakings shall remain in force for the required period of time.

160. If upon the results of investigation the investigating body determines the existence of subsidized import and the resulting injury to the sector of economy of member States, voluntary undertakings that was adopted remain in force in accordance with their conditions and provisions of this Protocol.

161. The investigating body may request from exporting third country or the exporter if their voluntary undertakings were approved by the Commission, information concerning as well as their performance and consent for verification of this information.

Failure to submit requested information within the period specified by the investigating body and opposition for verification of this information is considered as violation of voluntary undertakings by the exporting third country or exporter.

162. In case if voluntary undertakings by exporting third country or exporter are violated, or in case of withdrawal of such undertakings, the Commission can take a decision on the application of countervailing measure through introduction of provisional countervailing duty, if the investigation is not yet completed, or countervailing duty, if the final results of the investigation indicate the existence of grounds for its introduction.

Exporting third country or exporter in case if they violate assumed voluntary undertakings shall be provided with possibility to make their comments in connection with this violation.

163. The decision of the Commission on acceptance of voluntary undertakings shall determine the rate of the provisional countervailing duty or countervailing duty, which can be implemented in accordance with paragraph 162 of this Protocol.

#### 6. The imposition and application of countervailing duty

164. The decision to impose countervailing duty shall not be taken by the Commission if the specific subsidy of the exporting third country was withdrawn.

165. The decision on the imposition of countervailing duty shall be taken after the exporting third country, which provides a specific subsidy, was proposed to hold consultations, but this country refused the proposed consultations or in the course of such consultations a mutually acceptable decision has not been reached.

166. Countervailing duty is applied to products of all the exporters that are subject of the subsidized imports that cause injury to sector of economy of member States (except the product, supplied by those exporters, whose voluntary undertakings were approved by the Commission).

For products supplied by individual exporters, the Commission may establish individual rate of countervailing duty.

167. Countervailing duty rate shall not exceed the size of specific subsidy of export subsidies calculated per unit of the subsidized and exported product.

If subsidies are granted in accordance with various subsidy programs, their cumulative size shall be taken into account.

Countervailing duty rate can be less than the size of specific subsidy of exporting third country, if such rate is sufficient for elimination of the injury to sector of economy of member States.

168. When determining the rate of countervailing duty the investigating body takes into account the views of the consumers of member State received in the written form, whose economic interests may be affected by the introduction of countervailing duty.

169. Countervailing duty may be levied on products placed under customs procedures, which provide the application of countervailing measure, prior to the date of introduction of provisional countervailing duties, but not later than 90 calendar days, if according to the results of the investigation in respect of that product it was found:

1) injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from specific subsidies paid or bestowed;

2) it is deemed necessary, in order to preclude the recurrence of such injury, to impose countervailing duty to the imported products specified in subparagraph 1 of this paragraph.

170. The investigating body after initiation of investigation shall publish a notification in the official sources, specified by the Treaty, containing warning about possibility of application of countervailing duty to the imports of product under investigation in accordance with paragraph 169 of this Protocol.

The decision on publication of such notification shall be taken by the investigating body upon request of sector of economy of member States containing sufficient evidence of fulfillment of the conditions specified in paragraph 169, or upon the investigating body's own initiative based on the evidences that it has.

171. There may be provided additional means of notification of interested parties on the possible application of countervailing measure in accordance with paragraph 169 of this Protocol in the legislation of the member States.

## 7. Duration and review of countervailing measure

172. Countervailing measure shall be applied upon decision of the Commission in the amount and during the period, required for eliminating injury to sector of economy of member States due to subsidized import.

173. Duration of countervailing measure shall not exceed 5 years from the date of start of application of such measure or from the date of completing review, that was held in connection of changed circumstances and concerned at the same time, analysis of subsidized import and related with it injury to sector of economy of member States or in connection with expiration of duration of countervailing measure.

174. Review in connection with expiration of duration of countervailing measure shall be conducted on the basis of written application submitted in accordance with the paragraphs 186-198 of this Protocol, or upon initiative of the investigating body.

Review, in connection with expiration of duration of countervailing measure, is conducted if the application contains information about possibility to renew or continue subsidized import and inflict injury to sector of economy of member States upon expiration of countervailing measure.

Application for review due to expiration of duration of countervailing measure shall be submitted no later than 6 months before expiration of duration of countervailing measure.

Review shall be started before expiration of duration of countervailing measure and completed within 12 months from the date of its start.

Prior to completion of review conducted in accordance with provisions of this paragraph, application of countervailing measure shall be extended upon decision of the Commission. Within the period for which relative countervailing measure application is extended, countervailing duties, which were determined in connection with application of countervailing measure, term of validity of which is extended due to conducting of review, shall be paid in the manner determined for collection of provisional countervailing measures.

If upon the results of review due to expiration of duration of countervailing measure, the investigating body found that there are no grounds for application of

countervailing measure or was taken a decision on non-use of countervailing measure in accordance with the paragraph 272 of this Protocol, amounts of countervailing duty, charged in the manner, determined for charging provisional countervailing duties during period of extension of application of countervailing measure, shall be returned to payer in order determined in appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States about taking decisions specified in subparagraph 6 of this paragraph.

Validity of countervailing measure shall be extended by the Commission in case if upon results of review due to expiration of duration of countervailing measure, the investigating body will determine possibility to renew or continue subsidized import and infliction of injury to sector of economy of member States. From the date of entry into force of act of the Commission about extension of countervailing measure, amounts of countervailing duties, charged in the manner stated for charging of provisional countervailing duties within the period of extension of countervailing measure application, shall be entered and distributed in the manner, determined in appendix to this Protocol.

175. At the request of interested person, if after introduction of countervailing measure passed at least one year or upon initiative of the investigating body, review can be conducted in order to determine expediency to continue application of countervailing measure and (or) its review, including review of individual amount of rate of countervailing duty in connection with changed circumstances.

Depending on purposes of filing application about conducting of review due to changed circumstances, such application shall include evidence that:

continued use of countervailing measure is not required to counteract subsidized imports and eliminate injury to sector of economy of member States due to subsidized import, or

existing amount of countervailing measure exceeds amount sufficient to counteract subsidized import and eliminate injury to sector of economy of member States due to subsidized import; or

existing countervailing measure is not sufficient to counteract subsidized import and eliminate injury to sector of economy of member States due to subsidized import.



Review due to altered circumstances shall be completed within 12 months from the date of its beginning.

176. Provisions of section VI of this Protocol, concerning submission of evidences and conduct of investigation, shall be applied to reviews, provided by the paragraphs 172-178 of this Protocol, subject to corresponding differences.

177. The provisions of the paragraphs 172-178 of this Protocol shall be applied to undertakings, assumed by exporting third country or exporter in accordance with the paragraphs 154-163 of this Protocol, subject to corresponding differences.

178. Review can also be conducted in order to determine amount of individual rate of countervailing duty for exporter, in relation to which countervailing measure is applied, but investigation on reasons other than waiver of collaboration was not conducted. Such review can be started by the investigating body, upon request of indicated exporter.

#### 8. Determining of countervailing measure circumvention

179. Compensation measure circumvention shall be considered as change in way of deliveries of product for avoiding payment of countervailing duty or execution of assumed voluntary undertakings.

180. Review for determining circumvention of countervailing measure can be initiated upon request of interested person or upon the initiative of the investigating body.

181. Application that is specified in the paragraph 180 of this Protocol shall contain evidences of:

1) countervailing measure circumvention

2) neutralization of effect of countervailing measure (due to its circumvention) on production volumes and (or) sales and (or) prices of like product on market of member States;

3) preservation of benefits of providing specific subsidies from manufacturer and (or) exporter of goods (integrated parts and (or) derivatives of such goods).

182. For the period of review, conducted in accordance with the paragraphs 179-185 of this Protocol, the Commission can, in the manner specified for collection of provisional compensation duties, introduce countervailing duty for integrated parts and (or) derivatives of product, which is a subject of subsidized import, imported to the customs

territory of the EAEU from exporting third country, as well as for product, being a subject of subsidized import, and (or) its integrated parts and (or) derivatives, imported to the customs territory from any other exporting third country.

183. If upon results of review, conducted in accordance with the paragraphs 179-185 of this Protocol, the investigating body, does not determine circumvention of countervailing measure, amounts of countervailing duties, paid in accordance with this Protocol and in the manner specified for collection of provisional countervailing duties, shall be refunded to payer, in the manner, determined in appendix to this Protocol.

The investigating body shall in due time inform customs authorities of member States about taking decisions, specified in the first section of this paragraph.

184. In case of determining of circumvention of countervailing measure, applicable in accordance with this Protocol, upon results of review conducted in accordance with the paragraphs 179-185 of his Protocol, countervailing measure can be applied to integrated parts and (or) derivatives of product, which is a subject of subsidized import, which are imported to the customs territory of the EAEU from exporting third country, as well as to product, being a subject of subsidized import, and (or) its integrated parts and (or) derivatives, imported to the customs territory of the EAEU from any other exporting third country. From the moment of entry into force of the act of the Commission on introduction of countervailing measure, specified in this paragraph, amounts of countervailing duties paid in the manner specified for collection of provisional countervailing duties, shall be entered and distributed in the manner, determined in the appendix to this Protocol.

185. Review in order to determine countervailing measure circumvention shall be completed within 9 months from the date of its commencement.

## VI. Conducting Investigations

### 1. Basis for investigation

186. An investigation for the purpose of establishing the presence of increased imports and the resulting serious injury to the member States' economy sector or a threat of such a injury, as well as for the purpose of establishing dumping or subsidized imports

with the resulting material injury, a threat of such a injury or significant slowdown in the formation of the member States' economy sector, is held by the investigating body based upon the written application or on its own initiative.

187. The application referred in paragraph 186 of this Protocol, is submitted by:

1) a manufacturer of like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon the application on antidumping or countervailing measures administration) in the member States or his/her authorized representative;

2) an association of manufacturers the number of which comprises manufacturers of a substantial part, but not less than 25 percent of total production volume of a like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon the application on antidumping or countervailing measures administration) in member States or his/her authorized representative.

188. The authorized representatives of such manufacturers and associations shall have duly structured powers, confirmed by documents, originals of which are submitted to the investigating body along with the application.

189. The application specified in paragraph 187 of this Protocol shall be accompanied by the application evidence support by manufacturers of like or directly competitive or like goods in member States. The following sufficient evidences of application support are:

1) documents on joining to the application of other manufacturers of like or directly competitive goods in the member States, who along with the applicant produce the substantial part, but not less than 25 percent of the total production volume of like or directly competitive goods in the member States (upon the application on safeguard measures administration);

2) documents which confirm that the share of production of like goods by manufacturers in the member States (including the applicant) supporting the application, is at least 25 percent of the total production volume of like goods in the member States, on the condition that the production volume of like goods of manufacturers in the member States (including the applicant) supporting the application, constitutes more than 50

percent of the production volume of like goods of manufacturers in member States, who expressed their opinion (support or disagreement) regarding the application (upon the application on antidumping or countervailing measures administration).

190. The application referred in paragraph 186 of this Protocol, shall contain:

1) information about the applicant on the volume of production in quantitative and cost expression of like or directly competing goods (upon the application on safeguard measures administration), like goods (upon the application on antidumping or countervailing measures administration), on the member States' economy sector for 3 years which preceded the application submission date, as well as on the production volume in quantitative and cost expression of like or directly competing goods (upon the application on safeguard measures administration) or like goods (upon the application on antidumping or countervailing measures administration) by manufacturers in member States who supported the application, and on their share in the total production volume in member States of like or directly competing goods (upon the application on safeguard measures administration) or like goods (upon the application on antidumping or countervailing measures administration);

2) description of the imported into EAEU customs territory goods in respect of which it is proposed to introduce safeguard antidumping or countervailing measures with the indication of the EAEU HS code;

3) names of exporting third countries from where the given goods are originated or departed, based on the information of customs statistics;

4) the information about well-known manufacturers and(or) exporters of these goods within the exporting third country, about well-known importers and major consumers of these goods in member States ;

5) the information on the change of import volume into EAEU customs territory for the prior period, as well as for the subsequent period for which by the application submission date there is the available statistical data on goods in respect of which it is proposed to introduce safeguard, antidumping or countervailing measure;

6) the information on the change of the export volume of like or directly competing goods (upon the application on safeguard measures administration), or like goods (upon

the application on antidumping or countervailing measures administration) from the EAEU customs territory for a prior period, and for a subsequent period for which by the application submission date there is the available statistical data.

191. Along with the information specified in paragraph 190 of this Protocol, depending on the proposed in the application measure, the applicant specifies:

1) the evidences of the increased import of goods, evidences of serious injury to the member States' economy sector or a threat of such injury due to the increased import of goods, the proposal of safeguard measures introduction indicating the extent and the term of such a measure, as well as the plan of measures on the adaptation of the member States' economy sectors to work in conditions of foreign competition within the term of the proposed by the applicant safeguard measure (upon the application on safeguard measures administration);

2) the information about the export price and goods fair value, evidences of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector formation due to the dumping import of goods, as well as an offer on the introduction of antidumping measures with the indication of its size and the term of validity (upon the application of antidumping measures administration);

3) the information about the presence and the character of specific subsidy of the exporting third country and, if possible, its size, the evidence of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector formation due to the subsidized import of goods, as well as the proposal on the introduction of countervailing measures with the indication of its extent and a term of validity (upon the application on countervailing measures administration).

192. The evidences of the presence of significant injury or a threat of such a injury or a significant slowdown of the member States' economy sector (upon the application on safeguard measures administration) and evidences of material injury or a threat of such a injury or a significant slowdown of the member States' economy sector due to the dumping of importer subsidized import (upon the application on antidumping or countervailing measures administration) shall be based upon objective factors which characterize the economic status of the member States' sector, and shall be expressed in

quantitative and (or) cost indicators for the preceding period, as well as for the subsequent period for which by the application submission date there is the available statistical data (including goods production volume and the volume of its realization, share of goods in the member States' market, goods production cost price, goods price, degree of production capacity load, employment, labor productivity, profit, production profitability, goods sales volume, volume of investments in the member States' economy).

193. The information presented in the application shall be accompanied by a reference to the source of such information.

194. At specifying indicators contained in the application, for the purpose of comparability, single monetary and quantitative units shall be used.

195. The information contained in the application shall be certified by manufacturers' managers presented such information, as well as by their employees responsible for accounting and accounting reporting in the part concerning the information that is directly relevant to manufacturers' information.

196. The application with appendix of its non-confidential version (if the application contains confidential information) is submitted to the investigating body in accordance with the provisions of paragraph 8 of this Protocol and shall be registered on the day of application submission to this agency.

197. The application submission date is considered to be the date of registration of such an application in the investigating body.

198. The application on safeguard measure administration, antidumping or countervailing measure is rejected due to the following:

non-presentation of materials specified in paragraphs 189-191 of this Protocol when submitting the application;

unreliability of submitted by the applicant materials mentioned in paragraphs 189-191 of this Protocol;

non-presentation of non-confidential version of the application.

The rejection of the application on other grounds is not allowed.

2. Initiation and conducting the investigation

199. The investigating body before deciding whether to initiate the investigation, shall notify in written form the exporting third country on the receipt of the prepared, in accordance with the provisions of paragraphs 187-196, application of this Protocol on antidumping or countervailing measures administration.

200. The investigating body before deciding whether to commence the investigation within 30 calendar days from the date of registration of the application shall study the sufficiency and reliability of evidences and the information contained in this application, in accordance with paragraphs 189-191 of this Protocol. This period may be extended if it is necessary for the investigating body to obtain more information, but in all cases it should not exceed 60 calendar days.

201. The application may be withdrawn by the applicant prior to the investigation is initiated or in the course of the investigation.

The application is not considered as submitted if it is withdrawn before the investigation is commenced.

If the application is withdrawn during its course, the investigation is ceased without the introduction of safeguard, antidumping or countervailing measures.

202. Before deciding whether to commence an investigation, the information contained in the application shall not be disclosed in public.

203. The investigating body, prior to expiration period specified in paragraph 200 of this Protocol, decides to commence the investigation or refuses to conduct it.

204. When deciding whether to initiate the investigation, the investigating body notifies in written form the authorized body of the exporting third country, as well as other known interested parties about the decision and provides, within a period not exceeding 10 working days from the decision date, the notification publication on the investigation initiation in official sources provided by the Agreement.

205. The date of the notification publication about the investigation initiation on the official Commission website on the Internet is recognized as the date of the investigation initiation.

206. The investigating body can take a decision on investigation initiation, including on its own initiative, only if it has evidences of the increased import and the resulting

substantial injury or threat of such a injury to the member States' economy sector or the presence of dumping or subsidized imports and the resulting material injury, a threat of such a injury or significant slowdown of the member States' economy sector formation.

If the available evidences are insufficient, such an investigation could not be initiated.

207. The decision on rejection of conducting the investigation shall be accepted in case the investigating body, according to the results of application approval, revealed that the information submitted in accordance with paragraph 190-191 of this Protocol, does not indicate the presence of the increased, dumping or subsidized imports of goods to the EAEU customs territory and/or the resulting material injury or a threat of causing material injury to the member States' economy sector due to dumping or subsidized imports or the substantial injury (threat of substantial injury) to the member States' economy sector due to the increased import to the EAEU customs territory.

208. At the decision on investigation rejection the investigating body shall inform the applicant, in written form not later than 10 calendar days from the date of such a decision about the reason of investigation rejection.

209. Interested parties are authorized to declare their intention to participate in the investigation in written form and the established in accordance with this Protocol terms. They are recognized as participants of the investigation from the date of registration by investigating body of the application on the intention to participate in the investigation.

The applicant and manufacturers in member States who supported the application are recognized as participants of the investigation from the date of investigation commencement.

210. Interested parties may submit, in terms which do not violate the progress of the investigation, necessary for investigation information, including confidential information indicating the source of such information.

211. The investigating body shall be authorized to request the interested party for additional information for investigative purposes.

The requests may also be forwarded to the other organizations in the member States.



The request is considered as received by the interested party from the moment of its transfer to the authorized representative of the interested party or after 7 calendar days from the date when the request was sent by post.

The answer of the interested party shall be submitted to the investigating body not later than 30 calendar days from the date of request reception.

A response is considered as received by the investigating body if it arrived to the investigating body not later than 7 calendar days from the expiration date specified in passage 3 of this paragraph on 30 days term.

The information provided by the interested party upon expiration of the specified date may not be taken into account by the investigating body.

On the interested party's motivated and written request the term for reply submission may be extended by the investigating body.

212. If the interested party rejects the investigating body in providing necessary information, does not submit it on time, or submits unreliable information, thus significantly complicating the investigation, such an interested party is considered to be uncooperative, and preliminary or final conclusions can be made by the investigating body on the basis of available information.

Non-submission of the requested information in electronic form or in specified by the investigating body electronic format is considered by the investigating body as non-cooperation, provided that the relevant interested party can prove that the full implementation of criteria for the provision of the information specified in the investigating body's request is not possible or is associated with significant material costs.

If the investigating body does not take into account the information provided by the interested party for reasons other than those referred in the first passage of this clause, the body shall be informed about the reasons and grounds for this decision and it shall be given the opportunity to present, in this regard, comments within the terms set by the investigating body.

If during the preparation of any preliminary or final conclusion of the investigating body, including the determination of goods fair value (at conducting antidumping investigation) provisions of the first passage of the present clause were applied and the

information was used, including the one which was provided by the applicant - the information used in the preparation of these conclusions shall be checked using the available information obtained from third sources or from interested parties, provided that such a check will not hinder the investigation progress and will not lead to nonobservance of terms of its conducting.

213. The investigating body within the shortest term, after making the decision on the beginning of antidumping or countervailing investigation, shall send to the authorized body of the exporting third country and known to him exporters copies of the application or non-confidential version if the application contains confidential information, as well as provides such copies to other interested parties upon request.

In case if the number of known exporters is abundant, the copy of the application or non-confidential version is sent only to the authorized body of the exporting third country.

The investigating body provides copies of the application or non-confidential version to participants of safeguard investigations upon their request, if the application contains confidential information.

During the investigation the investigating body, taking into account the necessity of confidential information protection, provides to the investigation participants at their request the opportunity to review the information submitted in written form to any interested parties as evidences related to the investigation.

During the investigation the investigating body provides to investigation participants the possibility to review other information relevant to the investigation and which is used by them in the course of the investigation, but being non-confidential.

214. Upon interested parties' request the investigating body conducts consultations on the conducting investigation.

215. During the investigation all interested parties may protect their interests. To this end the investigating body provides to all interested parties at their request the opportunity to have a meeting so that they could present opposing points of view and to offer rebutments. Such an opportunity is provided taking into account the need of information confidentiality. It is not obligatory for all interested parties to attend the meeting, and the absence of any party shall not injury its interests.

216. Consumers which use goods that are object of investigation in manufacture of products, representatives of public associations of consumers, public authorities (departments), local governments and other bodies are authorized to submit to the investigating body the information that is relevant to the investigation.

217. The duration of the investigation shall not exceed:

1) 9 months from the date of the investigation commencement on the basis of safeguard measure administration. This period may be prolonged by the investigating body, but not more than for 3 months;

2) 12 months from the date of investigation commencement on the basis of antidumping or countervailing measures administration. This period may be prolonged by the investigating body, but for not more than 6 months.

218. The course of the investigation shall not hamper customs operations in respect of goods that are the object of the investigation.

219. The date of the investigation completion is the date of the Commission's approval of the report on the results of the investigation and of the Commission act project indicated in the paragraph 5 of this Protocol.

If the investigating body made a final conclusion about the absence of grounds for application, review or cancellation of safeguard, antidumping or countervailing measures, the date of the investigation completion shall be the date of a relevant notice publication by the investigating body.

In case of introduction of special provisional duty, provisional antidumping duty or provisional countervailing duty the investigation shall be completed before the expiration date of relevant provisional duties.

220. If the investigating body during the investigation course comes to a conclusion about the absence of grounds provided by passages 2 or 3 of paragraph 3 of this Protocol, the investigation is ceased without the introduction of safeguard, antidumping or countervailing measures.

221. If within two calendar years immediately preceding the date of the investigation commencement, one manufacturer, supporting the application referred in paragraph 186 of this Protocol (with the account of its entering the group of bodies in the

sense of section XIII of the Agreement), has such a share of production in the EAEU customs territory of like or directly competitive product (in the course of the investigation preceding safety measure administration), or like goods (in the course of the investigation of antidumping or countervailing measures administration), at which in accordance with the methodology of competition assessment, approved by the Commission act the provision of this manufacturer (with the account of its entering the group of bodies) in the corresponding EAEU' goods market can be recognized as dominant, the authorized body in the sphere of control over compliance with the uniform competition rules of the United economic area upon the request of the investigating body, assesses the impact of safeguard, antidumping or countervailing measures on competition in the relevant goods market of the EAEU.

### 3. Peculiarities of antidumping investigation

222. The antidumping investigation is ceased without introduction of antidumping measures if the investigating body establishes that the dumping margin is less than the minimum dumping margin or the amount of the occurred or of the possible dumping of imports or the size of the resulting from such an import material injury or a threat of such a injury or significant slowdown of the formation of the member States' economy is insignificant.

The minimum permissible dumping margin is understood as the dumping margin the amount of which does not exceed 2 percent.

223. The amount of dumping import from a certain exporting third country is insignificant if it is less than 3 percent of total imports of goods which are subject of the investigation to the EAEU customs territory, provided that the exporting third countries, the individual share of which in the total volume of imports is less than 3 percent of total imports of goods which are subject to investigation into the EAEU customs territory, in the aggregate have no more than 7 percent of total imports of goods which are subject to the investigation into the EAEU customs territory.

224. The investigating body, prior to a decision on the results of antidumping investigation, shall inform interested parties about the main conclusions on investigation

results, taking into account the necessity of confidential information protection and provides the opportunity to make comments.

The submission date for interested parties' comments is established by the investigating body, but may not be less than 15 calendar days.

#### 4. Peculiarities of countervailing investigation

225. After the application approval and before a decision on the investigation commencement the investigating body shall propose to the authorized body of the exporting third country, from where goods are exported in respect of which it is proposed to introduce the countervailing measure, to hold consultations in order to clarify the situation regarding the availability, extent and consequences of the submission of the assumed specific subsidy and to achieve mutually acceptable decisions.

Such consultations may continue in the course of the investigation.

226. Consultations referred in paragraph 225 of this Protocol, shall not hamper the approval of the decision on the investigation commencement and countervailing measure administration.

227. Countervailing investigation shall be ceased without the introduction of countervailing measures if the investigating body establishes that the amount of the specific subsidy of the exporting third country is minimal or volume of the occurred or the potential subsidized import or the size of material injury resulting from the import, or a threat of such injury, or significant slowdown of the member States' economy formation is insignificant.

228. The amount of the specific subsidy is recognized as minimal if it is less than 1 percent of goods value which is the object of the investigation.

The volume of subsidized import, as a rule, is considered as insignificant if it is less than 1 percent of total import of like goods into the EAEU customs territory, provided that the exporting third countries, the individual import share of each is less than 1 percent of total imports of like goods into the EAEU customs territory, in the aggregate have no more than 3 percent of total imports of like goods into the EAEU customs territory.

229. Countervailing investigation in respect of goods which are subject of the subsidized import and originating from a developing or least developed country which is a

user of EAEU tariff preferences system, shall be ceased if the investigating body establishes that the total amount of the specific subsidy of the exporting third country, provided in respect of these goods, does not exceed 2 percent of its value per unit or the import share of these goods from such a third country in the total volume of import of these goods to the EAEU customs territory is less than 4 percent, provided that the total share of the import of these goods into the EAEU customs territory from developing and least developed countries, the share of each is less than 4 percent of the total imports volume into the EAEU customs territory, does not exceed 9 percent of the total imports volume of these goods into the EAEU customs territory.

230. The investigating body prior to a decision on countervailing investigation results shall inform all interested parties about the main conclusions made in the course of the investigation, taking into account the necessity to protect confidential information, and shall provide the opportunity to make comments.

The submission date of the interested parties' comments is established by the investigating body, but may not be less than 15 calendar days.

5. Features of defining the certain sectors of economy of the member States in the case of the dumped or subsidized imports

231. When conducting the anti-dumping or countervailing investigations, the sector of the economy of the member States shall have the meaning provided in the Article 49 of the Treaty, except for the cases specified in Paragraphs 232 and 233 of this Protocol.

232. If the manufacturers of like products in the member States are simultaneously importing goods of the presumably dumped or subsidized imports, the sector of the economy of the member States can mean only other manufacturers of like goods in the member States.

Sector of the economy of the member States can also mean only the other manufacturers of like goods in the member States in case if:

1) particular manufacturers of like goods in the member States, either directly or indirectly control the exporters or importers of the product under investigation;

2) particular exporters or importers of the product under investigation, directly or indirectly control the manufacturers of like goods in the member States;

3) particular manufacturers of like goods in the member States and the exporters or importers of the product under investigation, are directly or indirectly controlled by a third person;

4) particular manufacturers of like goods in the member States and foreign manufacturers, exporters or importers of the product under investigation, directly or indirectly control a third person, provided that the investigating body, has reason to believe that such a bond is caused by behavior of such manufacturers differing from unrelated persons.

233. In exceptional cases, when defining the economy sectors of the member States the territory of the states can be regarded as an area where there are 2 or more geographically separate competing markets, and manufacturers in the member States within one of these markets can be considered as a separate sector of the economy of the member States, if such manufacturers sell for consumption or processing in such market at least 80 percent of like goods produced by them, and demand in such market for like goods is not satisfied to a large extent by manufacturers of such goods located in the rest of the member States.

In such cases the fact of material injury, the threat of causing such injury or substantial retardation of the establishment of the economy sector of the member States as a result of dumped or subsidized imports can be defined even when no injury caused to the main part of the economy sector of the member States, provided that the sale of the goods being subject to dumped or subsidized import is concentrated on one of the competing markets and the dumped or subsidized import causes injury to all or almost all manufacturers of like goods in the member States within one of such markets.

234. If the economy sector of the member States shall have the meaning specified in Paragraph 233 of this Protocol, and the results of the investigation, a decision is made on the application of anti-dumping or countervailing measure; such a measure can be applied to all imports of goods into the customs territory of the EAEU.

In this case, the anti-dumping or countervailing duty is introduced only after providing by the investigating body of the possibility to exporters of goods to stop exporting to the given territory of such goods at dumping prices (in case of the dumped

imports) or at subsidized prices (in case of subsidized imports), or to take the commitment regarding the conditions of export into the customs territory of the EAEU, provided that such possibility has not been used by the exporters.

#### 6. The public hearings

235. On the basis of the petition submitted by any of the participants in the investigation in writing and within the term established in accordance with this Protocol, the investigating body provides the conduction of the public hearings.

236. The investigating body is required to provide the participants of the investigation with the notice of the time and place of the public hearings, as well as a list of issues addressed in the course of the public hearings.

The date of the public hearings shall be appointed no earlier than 15 calendar days from the date of the notice provision.

237. Participants of the investigation or their representatives, as well as persons involved by them may participate in a public hearing in order to represent their available information related to the investigation.

During the public hearings, participants of the investigation can express their views and present evidence relevant to the investigation. The representative of the investigating body has the right to ask the participants of public hearings questions regarding the facts they report. The participants in the investigation are also entitled to ask each other questions and must provide answers to them. The participants of public hearings are not required to disclose information that is considered confidential.

238. The information presented at the public hearing orally, is taken into account during the investigation, if within 15 calendar days after the public hearings they were provided by participants of the investigation to the investigating body, in writing.

#### 7. Collection of information during the investigation

239. After the decision to start antidumping or countervailing investigation, the investigating body forwards a list of questions to the exporters and (or) manufacturers of the product under investigation known to him, that they must answer.



The list of questions is also sent to manufacturers of like or directly competing goods (in the case of special protection investigation), or like goods (in the case of an anti-dumping or countervailing investigations) in the member States.

If necessary, a list of questions can be forwarded to importers and consumers of the product under investigation.

240. The persons referred to in Paragraph 239 of this Protocol, which have been sent a list of questions, are obliged, within 30 calendar days from the date of receipt by them of the above-said list, to submit their responses to the investigating body.

Upon a motivated and described in writing request of persons referred to in Paragraph 239 of this Protocol, this period may be extended by the body conducting the investigation, for not more than 14 calendar days.

241. List of questions is deemed to be received by the exporter and (or) the manufacturer of the goods within 7 calendar days from the date of sending by mail or the day of transfer directly to the exporter and (or) the manufacturer.

Answers to questions included in the list shall be deemed received by the investigating body, if they reach the investigating body, in confidential and non-confidential versions no later than 7 calendar days from the date of expiry of the 30-day period specified in Paragraph 240 of this Protocol, or the date of expiry extension.

242. The investigating body must ensure the accuracy and reliability of the information provided by the interested parties during the investigation.

In order to verify the information submitted in the course of the investigation, or to obtain the additional information related to the ongoing investigation, the investigating body, if necessary, can conduct an inspection:

on the territory of a third country, subject to the obtaining of a consent of the foreign exporters and (or) the manufacturers of the product under investigation and absence of the objections from the third country, which has been officially informed of the upcoming inspection;

on the territory of a member State, subject to the obtaining of a consent of the importers of the product under investigation, and (or) the manufacturers of the like or directly competing goods.

The inspection is carried out after receiving the answers to lists of questions sent by the investigating body, in accordance with Paragraph 224 of this Protocol, except for the cases when a foreign manufacturer or exporter voluntarily agrees to conduct the inspection prior to such responses in the absence of objection by the relevant third country.

After obtaining the consent of the participants in the investigation and before the inspection they are sent a list of documents and materials that must be submitted to the staff forwarded to conduct the inspection. The investigating body shall notify the third country on the addresses and names of foreign exporters or manufacturers who are planned to be inspected, as well as of the dates of such inspections.

During the inspection other documents and materials necessary to confirm the truthfulness of the responses to the questionnaire information may also be requested.

If during the inspection the investigating body intends to engage, for the purposes of such inspection, the experts who are not employees of the body, participants in the investigation in respect of which it is supposed to carry out the inspection activities must be notified in advance of such decision of the investigating body. The participation of such experts in the inspection is allowed only in case of the possibility of sanctions for the violation of the confidentiality of information obtained in connection with the inspection.

243. In order to verify the information submitted during the investigation or additional information related to the ongoing investigation, the investigating body shall have the right to send representatives to the location of interested parties to gather information, consultation and negotiation with the interested parties, to familiarize itself with the samples of the goods and to take other necessary actions to conduct an investigation.

8. Submission of information by the authorized bodies of the member States, diplomatic and trade representatives of member States

244. For the purposes of this paragraph the term "competent authorities" of the member States refers to public authorities (government) and territorial (local) public authorities (administration) of member States authorized in the field of customs, statistics, taxation, registration of legal entities and other areas.

245. The authorized bodies of the member States, as well as diplomatic and trade missions of member States in third countries, provide the investigating body, information required by this Protocol upon its requests, necessary for initiating and conducting of safeguard, antidumping and countervailing investigations, including recurrent, preparation of proposals on the results of the investigations, monitoring the effectiveness of the introduction of safeguard, antidumping and countervailing measures and monitoring compliance with commitments approved by the Commission's decision.

246. The authorities referred to in the first indent of this paragraph are obliged to:

within 30 calendar days of receipt of the request of the investigating body, to make information available to them or to warn about impossibility to provide information stating the reasons for refusal. Upon a motivated request of the investigating body, the information requested must be provided in a shorter period;  
ensure the completeness and accuracy of the data and if necessary to quickly provide additions and changes.

247. The authorities referred to in the first indent of this paragraph, in the framework of their competence provide investigating body the information on the requested time periods, including:

1) statistics on foreign trade;

2) data of goods declarations (hereinafter - GD) disaggregated by customs procedures specifying the physical and value indicators of import / export of goods, the commercial name of the product from DT, terms of delivery, the country of origin (country of departure, country of destination), the name and other account details of the sender and the recipient;

3) information on the domestic market of the product under investigation and the relevant sectors of the economy of member States, including data on production volume, manufacturing capacity load, sales of goods, the cost of goods, profits and losses of national companies of member States, the prices of goods in the domestic market of member States, the profitability of production, number of employees, investment, goods manufacturers list;

4) information on the assessment of the possible introduction or non-introduction of safeguard, antidumping or countervailing measures on the results of a proper investigation into the market of the product under investigation, the member States, as well the forecast of production activities of national companies of member States.

248. The list of information, indicated in paragraph 247 is not exhaustive. If necessary, the investigating body is entitled to request any other information.

249. Correspondence on the implementation of the provisions of this paragraph and presentation of information upon the requests of the investigating body, are carried out in Russian. On individual details (indicators) containing foreign names it is permitted to provide information, using the Latin alphabet.

250. Presentation of information is carried out mainly on electronic data carriers. In the absence of reporting on electronic data carriers the information is transferred to the paper. The information requested in the form of tables (statistical and customs data) is presented in the format specified in the request investigating body. If the presentation of information in this format is not possible, the authorities referred to in the first indent of this paragraph shall notify the investigating body, and presents the information requested in a different format.

251. Requests to the authorities referred to in the first indent of this paragraph, to provide information are documented in writing on the letterhead of the investigating body, and signed by the manager (or his deputy) of the investigating body, stating the purpose, legal basis and the deadline for submission of information.

252. Information at the request of the investigating body is provided by the authorities referred to in the first indent of this paragraph, free of charge.

253. Information transfer is performed by agreed between exchanging bodies means available at the time of the transfer and providing safety and protection of information from unauthorized access. In case of sending information by facsimile communication the original document must also be sent by post.

#### 9. Confidential information

254. Information considered by the legislation of a member State as a confidential information, including commercial, tax and other confidential information, except state

secrets (the state secrets), or proprietary information of limited distribution, is presented to the investigating body, in compliance with the requirements established by law of the member State to such information.

The investigating body provides the necessary level of protection of such information.

255. Information submitted by the interested party to investigating body is considered confidential in case of submitting of justifications by this person including evidence that the disclosure of such information will provide a competitive advantage to a third party or entail adverse consequences for the person submitting such information, or to the person from whom they have received such information.

256. Interested parties representing confidential information are obliged to submit non-confidential version of such information along with it.

Non-confidential version should be sufficiently detailed for understanding of the information provided in a confidential form.

In exceptional cases, interested parties may provide justification of the impossibility of representing confidential information in non-confidential form, setting out the reasons why it is impossible to represent a non-confidential version.

257. In case the investigating body finds that the reasons presented by the interested party do not allow to relate the information as a confidential information or the interested party has not submitted the non-confidential version of the confidential information, does not provide a justification of the impossibility of representing confidential information in the form of non-confidential information, or represents information that is not a justification for the impossibility of the provision of the confidential information in non-confidential form, the investigating body, may not consider this information.

258. The investigating body shall not divulge or pass the confidential information to the third parties without the written consent of the provider of such information of the interested party or body referred to in first indent of paragraph 229 of this Protocol.

For the disclosure, the use, for the purpose of personal gain, other misuse of confidential information provided to the investigating body, applicants, participants of investigations, interested persons or entities referred to in first indent of paragraph 229 of

this Protocol, for the purposes of conducting the investigations, officers and employees of the investigating body, may be deprived of the privileges and immunities provided by an international treaty within the EAEU on the Privileges and Immunities, and prosecuted in the manner and according to rules approved by the Commission.

This Protocol does not preclude the disclosure by the investigating body, of the reasons underlying the decision of the Commission, or the evidence on which the Commission relied, to the extent that it is necessary to explain those reasons or evidence in the Court of the EAEU.

The order of use and protection of confidential information by the investigating body is approved by the Commission.

#### 10. Interested parties

259. The interested parties during the investigation are:

1) manufacturer of like or directly competitive goods (during the special safeguard investigations) or a like product (during an anti-dumping or countervailing investigations) in the member States;

2) association of manufacturers in the member States, the majority of participants of which are manufacturers of the like or directly competitive goods (during the special safeguard investigations) or a like product (during an anti-dumping or countervailing investigations);

3) association of manufacturers of member States, whose members carry out production of more than 25 percent of the total production of the like or directly competitive goods (during the special safeguard investigation) or a like product (during an anti-dumping or countervailing investigations) in the member States;

4) exporter, foreign manufacturer or the importer of the product under investigation, and the union of foreign manufacturers, exporters or importers of goods, a significant portion of participants of which are manufacturers, exporters or importers of the goods from the exporting third country or country of origin;

5) competent authority of the exporting third country or country of origin;

6) consumers of the goods under investigation, if they use such goods in the production process and the consolidations of such consumers in the member States;

7) associations of consumers, if the product is object of consumption primarily by individuals.

260. Interested parties are acting in course of the investigation on their own or through their representatives, who have duly appointed credentials.

If the interested party during the investigation acts through an authorized representative, the investigating body bring to the attention of the interested party all the information about the subject of the investigation only through this representative.

11. Notification of the decisions taken in connection with the investigations

261. The investigating body publishes on the official website of the Commission the following notifications of the decisions taken in connection with investigations:

on the initiation of investigation;

on the imposition of provisional special, provisional antidumping and provisional countervailing duty;

on the possible application of antidumping duty in accordance with paragraph 104 of this Protocol and possible application of countervailing duty in accordance with paragraph 169 of this Protocol;

on termination of safeguard investigation;

on other taken decisions.

Such notifications are also sent to the authorized body of the exporting third country and other interested parties known to the investigating body.

262. Notice of initiation of an investigation shall contain:

1) a complete description of the goods under investigation;

2) name of the exporting third country;

3) The short summary indicating the presence of increased imports into the customs territory of the EAEU, and presence of a serious harm or the threat of serious harm to sectors of the economy of the member States (at deciding whether to initiate a special safeguard investigation);

4) The short summary indicating the presence of dumped or subsidized imports and the availability of material harm or the threat of material harm to the industry of the economy of the member States or a significant slowdown of creating of the sectors of the

economy of the member States (at deciding whether to initiate an anti-dumping or countervailing investigation );

5) address at which the interested parties may submit their views and information related to the investigation;

6) time limit of 25 calendar days during which the investigating body, receives statements of intent to participate in the investigation from interested parties;

7) time limit of 45 calendar days during which the investigating body receives petitions for a public hearing from the participants of the investigation;

8) time limit of 60 calendar days during which the investigating body, receives comments and information related to the investigation in writing from interested parties.

263. Notice of the imposition of a provisional special, provisional anti-dumping or provisional countervailing fee must also contain the following information:

1) name of the exporter of the product under the investigation, or if the data is not possible to provide, the name of the exporting third country;

2) description of the product under the investigation sufficient for the purposes of customs control;

3) grounds for a positive conclusion on the presence of the dumped imports, indicating the size of the dumping margin and describing the basis for the choice of methodology for calculating and comparing the normal value of the goods and its export price (with the introduction of the provisional anti-dumping duty);

4) grounds for a positive conclusion on the presence of subsidized imports with the description of the fact of presence of subsidies and an indication of the calculated amount of the subsidy per unit of goods (with the introduction of the provisional countervailing duty);

5) grounds for determining the existence of serious or material harm, the threat of such harm or substantial retardation of the establishment of the sectors of the economy of the member States;

6) grounds for establishing a causal link between increased imports, dumped or subsidized imports and respectively or serious material harm, the threat of such harm or substantial retardation of creating sectors of the economy of the member States;



7) grounds for a positive conclusion on the presence of increased imports (with the introduction of the provisional special duty).

264. Notice on the possible application of antidumping duty in accordance with paragraph 104 of this Protocol and possible application of countervailing duty in accordance with paragraph 169 of this Protocol should contain:

1) description of the product under investigation sufficient for the customs procedures;

2) name of the exporter of the product under investigation or name of the exporting third country (if name of the exporter is not known)

3) brief information, proving the fulfillment of conditions specified in paragraphs 104 and 169.

265. Notice on the results of the special safeguard investigation should contain the main conclusions drawn by the investigating body, based on the analysis of the information available to it, and to be published by the investigating body, within 3 working days from the date of completion of the investigation.

266. Notice of completion of the investigation, by results of which investigating body has concluded that there are grounds for the introduction of anti-dumping or countervailing duties, or the advisability of approval of the respective undertakings are published within 3 business days from the date of completion of the investigation and shall contain:

1) clarification of the final conclusion of the investigating body, about the results of the investigation;

2) an indication of the facts upon which such a conclusion is made;

3) information specified in paragraph 263 of this Protocol;

4) an indication of the reasons for acceptance or rejection of the investigation arguments and demands of exporters and importers of goods under investigation;

5) an indication of the reasons for the decision in accordance with paragraphs 48-51 of this Protocol.

267. Notice of termination or suspension of an investigation in connection with the approval of the relevant undertakings should contain non-confidential version of such undertakings.

268. Notice of completion of the investigation, by results of which the investigating body has concluded that there were no grounds for the introduction of safeguard, antidumping or countervailing measures shall contain:

1) clarification of the final conclusion of the investigating body, about the results of the investigation;

2) an indication of the facts upon which such a conclusion is made.

269. Notice of completion of the investigation, which resulted in the decision on the non-action in accordance with paragraph 272 of this Protocol shall contain an explanation of the reasons for the Commission's decision on the non-application of safeguard, antidumping or countervailing measures specifying the facts and conclusions based on which such a decision is made.

270. The investigating body sends all notifications under the provisions of WTO Agreement in terms of investigations and the measures applied to the competent authorities of the World Trade Organization in the prescribed manner.

271. The provisions of paragraphs 236-245 of this Protocol shall apply *mutatis mutandis* to notices of initiation and completion of the review.

## VII. Non-application of the Safeguard, Antidumping and Countervailing measures

272. The Commission, on the results of the investigation, may decide not to apply safeguard, antidumping or countervailing measures, even if the application of this measure meets the criteria established by this Protocol.

Such decisions may be adopted by the Commission if the investigating body, according to the analysis of all the information provided by interested parties, has prepared the conclusion that the use of such measures may harm the interests of the member States. Such decision may be reviewed if the reasons which form the basis of his decision have changed.

273. Conclusion referred to in paragraph 272 of this Protocol, shall be based on a collective evaluation of interests of the economy sector of member States, users of the product under investigation, if they use such goods in the production process, and associations of such consumers in the member States, associations of consumers if the product is object of consumption primarily by individuals, and importers of this product. At the same time, this conclusion can only be done after the said parties were given the opportunity to submit their comments on the matter in accordance with paragraph 274 of this Protocol.

In preparing of such conclusion particular importance should be given to the need to eliminate the distorting influence of the increased, dumped or subsidized imports on the ordinary course of trade and the state of competition on the relevant market of the member States and the industry position of the member States' economy sectors.

274. For the purposes of the application of the provisions of paragraph 272 of this Protocol manufacturers of like or directly competitive goods (during the special safeguard investigations) or a like product (with an anti-dumping or countervailing investigations) in the member States, their associations, importers and associations of importers of the goods under investigation, consumers of the product under investigation, if they use such goods in the production process and the consolidation of such consumers in the member States, associations of consumers, if the product is object of consumption primarily by individuals have the right within the period specified in the notice published in accordance with paragraph 262 of this Protocol, to submit comments and information on the matter. Such comments and information or their non-confidential version, as appropriate, shall be submitted for review to other interested parties referred to in this paragraph, which may submit their response comments.

The information provided in accordance with the provisions of this paragraph shall be taken into account regardless of its source, subject to the availability of the objective evidence to support its reliability.

## VIII. Final Provisions

1. Features of appeal of decisions on the application of safeguard, antidumping and countervailing measures in court

275. The order and the peculiarities of appealing the decisions of the Commission and (or) action (or inaction) of the Commission related to the use of safeguard, antidumping and countervailing measures are defined in the Statute of the Court of the EAEU (Annex 2 to the Treaty) and Regulation of the Court of the EAEU.

2. Enforcement of Court decisions

276. The Commission shall take the necessary measures to comply with the Court's decisions regarding the application of safeguard, antidumping and countervailing measures. The decision of the Commission or its individual provisions recognized by the Court do not conform with the Agreement and (or) international agreements of the EAEU, is provided by the Commission in accordance with the contract and (or) international Agreements of the EAEU, through the initiative of the investigating body, review regarding an issue required for the implementation of the decision of the Court.

In conducting a review *mutatis mutandis*, the provisions relating to the investigation are applied.

Deadline for review under this paragraph shall, as a rule, not exceed 9 months.

Commission Decisions taken pursuant to the Court's decision shall enter into force in accordance with the general procedure established by the Agreement.

3. Administrative procedures for the investigation

277. In order to implement this Protocol, the Commission shall adopt the acts on procedures for initiation, conducting, completion and (or) the suspension of the investigation. The acts adopted by the Commission shall not change or contradict the provisions of the Agreement.

## APPENDIX

### to the Protocol on Application of Safeguard, Antidumping and Countervailing Measures with regard to Third Countries

#### Regulation on Crediting and Distribution of Special, Antidumping, Countervailing Duties

##### I. General Provisions

1. This Appendix defines the order of crediting and distribution among member States of the amounts of the special, antidumping and countervailing duties established in accordance with Section IX of the Treaty of the Eurasian Economic Union (hereinafter – Treaty). The indicated procedure of crediting and distribution of the amounts of special, anti-dumping, countervailing duties between member States shall also apply in respect of amounts of fines (percent) accrued on the amount of special, anti-dumping, countervailing duties in the cases and manner provided by the Customs code of the Eurasian Economic Union.

2. Terms used in this Appendix, are applied in the meaning defined by the Protocol on the order of crediting and distribution of the amounts of customs duties (other duties, taxes and fees of equivalent effect), their transfer to the revenues of the budgets of the member States (Annex 5 to the Treaty), Protocol on application of safeguard, antidumping and countervailing measures to third countries (Annex 8 to the Treaty) and the Customs Code of the Eurasian Economic Union.

##### II. Crediting and Accounting of the Amounts of Special, Antidumping, Countervailing Duties

3. From the date of entry into force of the decision of the Commission on application of safeguard, antidumping, countervailing measure the obligation to pay the

amounts of special, anti-dumping, countervailing duties (except provisional special, provisional anti-dumping, provisional countervailing duties) in respect of goods imported into the customs territory of the EAEU arises from the date of application of the measures subject to crediting, distribution and transfer to the budgets of the member States in the order and according to the standards defined in the Annex 5 to this Treaty taking into account particularities provided by this Regulation.

4. When not credited or incompletely credited to the budget of other member States the amounts of distributed special, antidumping, countervailing duties in a timely and non-arrival of information from competent authority of that member State on the absence of special amounts of anti-dumping, countervailing duties, the provisions in paragraphs 20-28 of the Protocol on the order of crediting and distribution of the amounts of customs duties (other duties, taxes and fees of equivalent effect), their transfer to the revenues of the budgets of the member States (Annex 5 to the Treaty) established for crediting and distribution between member States of the customs import duties.

5. The amounts of special, anti-dumping, countervailing duties are subject to crediting in the national currency to the single account of the authorized body of the member State in which they are payable in accordance with the Customs Code of the Eurasian Economic Union, including the collection of such duties.

6. Special, anti-dumping, countervailing duties are paid by payers to the single account of the authorized body to which they are payable in accordance with the Customs Code of the Eurasian Economic Union, by the individual settlement (payment) documents (instructions).

7. Special, anti-dumping, countervailing duties may not be offset to the payment accounts of other fees, except for crediting debt of the payers on the payment of customs fees and fines (percent) (hereinafter - offset to repay the debt).

8. Taxes and fees, other payments (excluding import duties and export duties on crude oil and certain categories of goods produced from oil (petroleum), exported outside the customs the EAEU) may be offset to the payment accounts of special, antidumping, countervailing duties, received to single account of the authorized body of the member

State in which they are payable in accordance with the Customs Code of the Eurasian Economic Union.

Import duties may be offset to repay the debt of payers to pay special, antidumping, countervailing duties.

9. Authorized bodies separately consider:

income received (refunds, offsets to repay the debt) from the special, antidumping, countervailing duties to a single account of the authorized body;

the amounts distributed from special, antidumping, countervailing duties credited to foreign currency accounts of other member States;

the amounts credited to the budget of the member State revenues from the distribution of that member State's special, antidumping, countervailing duties;

the amounts of special, antidumping, countervailing duties received in the budget of the member State from other member States; the amounts received in the budget of the member States for infringement interest provisions of this Appendix, which caused failure, incomplete and (or) late fulfillment of the undertakings of a member State to transfer funds from distribution of special, anti-dumping, countervailing duties;

the amounts of special, antidumping, countervailing duties, the transfer of which to foreign currency accounts of other member States is suspended.

10. The deposits indicated in paragraph 9 of this Regulation are reported separately in the reporting on budget performance of each member State.

11. Amounts of special, antidumping, countervailing duties received to single account of the authorized body on the last business day of each calendar year of member States are reflected in the performance report of the reporting year.

12. Amounts of distributed special, antidumping, countervailing duties for the last working day of the calendar year of the member State are credited no later than the second working day of the current year of the member State to the budget of the member States and on foreign currency accounts of other member States, as well as reflected in the statement on the financial performance of the reporting year.

13. Revenues from the distribution of the special anti-dumping, countervailing duties received in the budget of the member State from the competent authorities of other

member States, for the last working day of the calendar year of other member States, are reflected in performance report for of the current year.

14. Funds held in a single account of the authorized body, cannot be levied in execution of judicial acts or otherwise, except in cases of debt collection to pay customs fees, special, antidumping and countervailing duties, as well as penalties (percent ) in accordance with the Customs Code of the Eurasian Economic Union.

15. Provisional special, provisional antidumping, provisional countervailing duties shall be paid (collected) in the national currency to the account specified by the legislation of the member State customs authorities which are subject to provisional special, provisional antidumping, provisional countervailing duties.

16. In the cases established by Annex No. 8 the amounts of paid (collected) special provisional, provisional anti-dumping, provisional countervailing duties, as well as anti-dumping, countervailing duties paid in the manner prescribed for the levying of appropriate types of provisional duties shall be offset in special anti-dumping, countervailing duties and crediting to the single account of the authorized body of the member State in which they were paid not later than 30 working days from the date of entry into force of the Commission's decision on the application (extension, extension to constituents and (or) goods derivatives) safeguard, anti-dumping, countervailing measures.

In the cases established by Appendix No.8 amounts to secure the payment of antidumping duties shall be offset to anti-dumping duties and credited to the single account of the authorized body of the member State in which they were paid not later than 30 working days from the date of entry into force of the relevant decision of the Commission on the application of anti-dumping measures.

### III. Refund of Special, Antidumping, Countervailing duties

17. Refund of amounts of provisional special, provisional antidumping, provisional countervailing duties, as well as anti-dumping, countervailing duties levied in the manner prescribed for the collection, provisional anti-dumping and provisional countervailing duties to the payer is performed in cases defined in Annex 8 to this Agreement, in



accordance with the legislation of the member States in which such duties were paid (recovered), unless otherwise established by the Customs Code of the Eurasian Economic Union, subject to the provisions of this Appendix.

18. Refund of special, antidumping, countervailing duties shall be carried out in accordance with the laws of the member States, unless otherwise provided by Customs Code of the Eurasian Economic Union, subject to the provisions of this Appendix.

19. Refund of amounts of special, antidumping, countervailing duties to the payer, their offset to repay the debt are carried out from a single account of the authorized body in the current day within amounts of special anti-dumping, countervailing duties received on a single account of the authorized body, as well as the special anti-dumping, countervailing duties offset to the account of payment in the reporting day, taking into account the amount of refund of special, antidumping, countervailing duties, unaccepted by the national (central) bank for execution in the reporting day, except for the cases established by paragraph 20 of this Appendix.

20. Refund of the amounts of special, antidumping, countervailing duties to the payer, their offset to repay the debt are carried out from a single account of the authorized body of the Republic of Kazakhstan in the reporting day within amounts of special anti-dumping, countervailing duties received (credited) to the single account of the authorized body of the Republic of Kazakhstan on the day the refund (offset).

21. Determining the amount of refund of special, antidumping, countervailing duties, returnable and (or) offset to repay the debt in the current day is carried out before the distribution of received special, antidumping, countervailing duties between the budgets of the member States.

22. If funds are insufficient for the return of special anti-dumping, countervailing duties and (or) offset to repay the debt in accordance with paragraphs 19-20 of this Appendix, said refund (offset) is carried out by a member State in the following weekdays.

Penalties (interest) for late return to the payer of special, antidumping, countervailing duties shall be paid from the budget of that member State to the payer and are not included in the special, antidumping, countervailing duties.

IV. Exchange of the information between the competent authorities of the member States

23. The exchange of information between the competent authorities required for the implementation of this section shall be carried out in accordance with the decision of the Commission determining the procedure, form and timing of the exchange of information.

ANNEX 9  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Technical Regulation within the Eurasian Economic EAEU

1. The Protocol is drafted in accordance with Section X of the Treaty on Eurasian Economic EAEU and defines order, rules and procedures of technical regulation within the EAEU.

2. Definition used in the Protocol shall have the following meaning:

“accreditation” means official recognition by the accrediting body of the competence of the conformity assessment body (including bodies on certification, testing laboratories (center) to carry out works in the specified area of conformity assessment;

“safety” means the absence of unacceptable risk related to any potential of causing harm and/or injury;

“release of products into circulation” means supply or importation of products (including shipment from the producer’s warehouse or dispatch without storage) with the aim to distribute on the EAEU territory during the commercial activity free of charge of on a paid basis;

“state control (supervision) over observance of requirements of technical regulations” means activity of the authorized bodies of member State aimed at prevention, detection and suppression of violation of requirements of the technical regulations of the EAEU by the legal entities, their heads and other officials, physical persons registered as individual entrepreneurs, their authorized representatives, carried out by means of inspections of legal entities and physical persons registered as individual entrepreneurs and application of measures provided by the legislation of the member States on suppression and (or) elimination of consequences of the detected violations, as well as supervision over the implementation of the mentioned requirements, analysis and

prognosis of implementation of requirements of the technical regulations of the EAEU during the activities carried out by the legal entities and physical persons registered as individual entrepreneurs;

“declaration of compliance with technical regulations of the EAEU” means the document by which the applicant certifies compliance of the products released for circulation with requirements of technical regulations of the EAEU;

“declaration of compliance” means the form of mandatory confirmation of compliance of the products released for circulation with the requirements of technical regulations of the EAEU;

“Unified mark of circulation of products in the market of the EAEU” means the designation serving for informing purchasers and consumers on compliance of products released for circulation with requirements of technical regulations of the EAEU;

“Product identification” means procedures of attributing products to the field of application of technical regulation of the EAEU and determination of conformity of products to the technical documentation for these products;

“Producer” means juridical person or physical person registered as individual entrepreneur, including foreign producers, carrying out production on their own behalf or production and marketing of products and persons responsible for its compliance with the requirements of technical regulations of the EAEU;

“Interstate standard” means regional standard adopted by the Interstate Council on Standardization, Metrology and Certification of the Commonwealth of Independent States;

“International standard” means a standard adopted by an international standard-setting organization;

“national (state) standard” means a standard adopted by the national standardizing body of the member State;

“object of technical regulation” means products or products and processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization related to product requirements;

“mandatory confirmation of conformity” means a documentary certification of compliance of products or any other processes of design (including research), production,

construction, installation, adjustment, operation, storage, transportation, distribution or utilization with the requirements of the technical regulations of the EAEU;

“mandatory certification” means a form of mandatory conformity by the certification body of compliance of objects of technical regulation with the requirements of the technical regulations of the EAEU;

“accreditation body” means body or a legal entity authorized by the legislation of the member State for carrying out accreditation;

“conformity assessment” means direct or indirect determination of compliance with the requirements applied to the object of technical regulation;

“products” means the result of activity presented in the material tangible form and intended for further use for economic and other purposes;

“regional standard” means standard adopted by a regional standardizing organization;

“registration (state registration)” means from of conformity assessment of objects of technical regulation to the requirements of the technical regulations of the EAEU carried out by the authorized body of the member State;

“risk” means a combination of the possibility of causing injury and the consequences of such injury to human life or health, property, environment, animal or plant life or health;

“registration certificate (state registration certificate)” means a document confirming the conformity of an object of technical regulation to the requirements of the technical regulations of the EAEU;

“certificate of compliance with technical regulations of the EAEU” means the document by which the authority for certification certifies compliance of the products released for circulation with requirements of technical regulation of the EAEU (technical regulations of the EAEU);

“standard” means the document in which for the purposes of multiple voluntary use, the product characteristics, rules for realization and the characteristics of processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization, executing works or rendering services,

rules and methods of research (tests) and measurements, rules for sampling, requirements to terminology, symbolic, packaging, labeling or tags and rules of their application are established;

“technical regulations of the EAEU” means document adopted by the Commission and stipulating requirements to the objects of technical regulations mandatory for application and fulfillment in the territory of the EAEU;

“technical regulating” – the legal regulation with regard to the sphere of establishments, application and implementation of mandatory requirements to products or products and related to product requirements processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization, as well as legal regulation with regard to the sphere of conformity assessment;

“person authorized by the producer” – juridical or physical person as an individual entrepreneur registered in accordance with the legislation of the member State, who on the basis of the agreement with the producer, including foreign producer, carries out activities on behalf of the producer during the conformity assessment and release of products for circulation at the territory of the EAEU, as well as bear responsibility for non-compliance of products with the requirements of the technical regulations of the EAEU.

3. For the objects of technical regulating, for which no technical regulation of the EAEU came into force, the norms of the legislation of the member States or Commission acts apply.

Peculiarities of technical regulating, conformity assessment, standardization and accreditation with regard to defense products (works, services ) provided through the state defense order, products (works, services) used for the protection of information constituting a state secret or relating to protected information of limited-access in accordance with the legislation of the member States, products (works, services), information on which constitutes state secret, products (works, services) and objects for which requirements related to safety in the field of nuclear energy are established, as well with regard to processes of design (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, sale, utilization and disposal of

the mentioned products and mentioned objects are established by the legislation of the member States .

In the technical regulations of the EAEU mandatory requirements to the objects of technical regulating, as well as rules of identification of products, forms, schemes and procedures of conformity assessments are established.

Relevant international standards (rules, directives and recommendations and other documents issued by international organizations for standardization), are applied as the basis for development of technical regulations of the EAEU, except for the cases when relevant documents are absent or they do not comply with the purposes of adoption of technical regulations of the EAEU, including due to climatic and geographical factors or technological and other particularities. In the absence of necessary documents regional documents (regulations, directives, resolutions, standards, rules and other documents), national (state) standards, national technical regulations or drafts thereof are used.

Technical regulations of the EAEU may also contain requirements to terminology, packaging, marking, labels and rules of application thereof, sanitary requirements and procedures, as well as veterinary-sanitary and phytosanitary quarantine requirements of a general nature.

Technical regulations of the EAEU may contain specific requirements reflecting particularities associated with climatic and geographical factors or technological particularities typical to the member States and effective only in the territories of the member States.

The technical regulations of the EAEU taking into account the degree of risk of harm may contain special requirements to products or products and related to products requirements process of design (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, marketing and utilization, requirements for terminology, packaging, marking, labeling and the rules of their application to ensure the protection of certain categories of people (minors, pregnant women, nursing mothers, the disabled).

Technical Regulations of the EAEU are developed taking into account the recommendation on the content and structure of a typical technical regulation of the EAEU approved by the Commission.

Development, adoption, amendment and cancellation of technical regulations of the EAEU is carried out in order approved by the Commission.

4. For the purpose of fulfillment of requirements of the technical regulation of the EAEU, the Commission shall approve the list of international and regional (interstate) standards and in the absence thereof – national (state) standards voluntary application of which ensures observance of requirements of the requirements of technical regulations of the EAEU.

Voluntary application of relevant standards included into the mentioned list is a sufficient condition of compliance with requirements of the relevant technical regulations of the EAEU.

Failure to apply standards included into that list may not be deemed as non-observance of requirements of technical regulations of the EAEU.

In case standards included into the mentioned list are not used, conformity assessment is carried out base on risk analysis.

In order to conduct research (tests) and measurements when assessing compliance of the objects of technical regulating with the requirements of technical regulations of the EAEU, the Commission approves the list of international and regional ( interstate ) standards, and in their absence - the national ( state) standards containing rules and methods of research (tests) and measurements, including the rules of sampling required for the application and enforcement of the technical regulations of the EAEU and the implementation of conformity assessment of objects of technical regulation.

Development and adoption of the mentioned lists of standards is carried out in the order approved by the Commission.

Pending the development of relevant interstate standards in the list of international and regional ( interstate ) standards, and in their absence - of the national (state) standards containing rules and methods of research tests) and measurements, including the rules of sampling required for the application and enforcement of the requirements of technical



regulations of the EAEU and conformity assessment of the objects of technical regulation , may include research methods (tests) and measurements certified (validated) and approved in accordance with the legislation of the member State . The list of these methods (tests) and measurements is provided by the competent authorities of the member States to the Commission.

International and regional standards are applied after their adoption as interstate and national (state) standards.

5. Conformity assessment of objects of technical regulating established in the technical regulation of the EAEU shall be made in form of registration (state registration), testing, confirmation of compliance, expertise and (or) in any other form.

Mandatory conformity assessment is carried out in the form of declaration of conformity and certification.

Forms, schemes and procedures of conformity assessment are established in technical regulations of the EAEU based on the typical schemes of conformity assessment approved by the Commission.

Conformity assessment of products released into circulation with requirements of technical regulations of the EAEU shall take place before the issue thereof for circulation.

Mandatory conformity assessment is carried out only in the cases established by technical regulation of the EAEU and only for compliance with the requirements of the technical regulation of the EAEU.

During the conformity assessment juridical person or physical person registered at the territory of the member State as individual entrepreneur in accordance with the national legislation and operating as producer or seller or authorized by the person authorized by the producers can act as an applicant.

The circle of applicants is determined in accordance with technical regulation of the EAEU.

The common forms of documents on conformity assessment and rules of their drafting are approved by the Commission.

The unified registers of issues of adopted documents on conformity assessment are published at the official website of the EAEU in the Internet. Drafting and maintenance of this unified registers is carried out in order approved by the Commission.

Accredited bodies on conformity assessment (including certification bodies, testing laboratories (centers)) conducting works of conformity assessment with the requirements of the technical regulations of the EAEU, shall be included into the unified register of conformity assessment bodies of the EAEU. Inclusion of bodies on conformity assessment into this register, as well as its formation and maintenance is carried out in the order approved by the Commission.

Registration (state registration) of objects of technical regulation is carried out by the bodies of the member State authorized to conduct such works in accordance with the legislation of the member State.

6. Products compliant with requirements of technical regulations of the EAEU applicable to these products and having passed through procedures of assessment of compliance prescribed by technical regulations of the EAEU shall be marked with the unified mark of circulation of products in the market of the EAEU.

Image of a unified mark of circulation of products on the market of the EAEU and its application procedure are approved by the Commission.

When products are released for circulation on the market of the EAEU the products should be labelled in Russian and in the state(s) language(s) of the member State in whose territory(s) the products are marketed, in case appropriate requirements are provided by the legislation of the member State.

7. Pending the adoption of the technical regulation of the EAEU products for which member States have established similar mandatory requirements, used similar conformity assessment forms and schemes, used similar or comparable testing and measurement methods when confirming the conformity and which are included into the unified list of products subject to mandatory conformity assessment with the issuance of the certificate of conformity and declarations of conformity of a common form, are allowed for circulation at the territory of the EAEU if they had undergone conformity assessment

procedures in the territory of one of the member States complying with the following conditions:

- certification is conducted by the conformity assessment body included in the uniform register of bodies on conformity assessment of the EAEU;
- tests are conducted in the testing laboratories included into the unified register of bodies on conformity assessment of the EAEU;
- certificates of conformity or declarations of conformity of a common CU form are issued;

The mentioned register of products, unified forms of certificates and of declarations of conformity and rules of their formation are approved by the Commission.

8. Importation of products subject to mandatory conformity assessment to the customs territory of the EAEU is carried out in the order approved by the Commission.

9. The member State guided by protection of its legal interests, can apply emergency measures to prevent release into circulation of hazardous products.

In such case the member State shall immediately inform other member States on taken emergency measures and will proceed to consultations and negotiations on that issue.

10. The Commission forms the informational system in the field of technical regulation, which forms part of the integrated informational system of the EAEU.

ANNEX 10  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Conducting Coordinated Policy in the Sphere of Ensuring  
Uniformity of Measurements

1. This Protocol was developed in accordance with Section X of the Treaty on the Eurasian Economic EAEU and defines the principles of implementation by the member States of agreed policies in the area of traceability to ensure comparability of measurements and results of assessment (confirmation) of conformity with the technical regulations of the EAEU and measurements of quantitative indicators of the products.

2 . Definitions used in this Protocol are as follows:

"attestation of measurement methodologies (methods) " means research and demonstration of compliance of methodologies (methods) of measurement with metrology measurement requirements ;

"Unit value" means the value of fixed size, which is conventionally assigned a numerical value of one, and which is used to quantify the units homogeneous with it;

"unity of measurements" means the state of measurements in which the results of these measurements are expressed measurement units allowed for use in the member States and accuracy of measurements indicators do not go beyond the established boundaries;

"Dimension" means the process of experimentally obtaining one or more quantitative values of the quantity that can reasonably be attributed to the quantity;

"Calibration of a measuring means" - a set of operations that establish the relation between the values obtained by using the measurement means and quantity value reproduced using the standards of units of the same kind, in order to determine the actual metrological characteristics of measuring means;

"International System of Units (SI) " means a system of units adopted by the General Conference on Weights and Measures , based on the International System of units and includes the names and designations, set of prefixes, their names, designations and rules;

"Methodology (method) of Measurement" - a set of specific operations described in the measurement, the implementation of which provides the measurement results with the established parameters of accuracy;

"Metrological traceability" means property of a measurement result whereby the result can be correlated with national (primary) standard through a documented unbroken chain of calibrations and verifications;

"Metrological expertise" - analysis and evaluation of the correctness and completeness of the application of metrological requirements , rules and regulations related to the unity of measurements;

"National (primary) standard" means the standard unit of value, recognized by a member State for use in public or economic activity as a basis for attributing values of other standards of quantity units of the same kind;

"Verification of measurement tools" means a set of operations performed in order to confirm the conformity of measuring tools to the mandatory metrological requirements;

"Reference methodology (method) of measurements" means the methodology (method) of measurements used to obtain measurements that can be used to assess the accuracy of the measured quantity values obtained by other methodologies (methods) of measurement for the quantities of the same kind, as well as calibration of means of measurements or for characterization of reference samples;

"Comparison of standards" means the establishment of the relationship between the measurements during playback and transmission of unit of measurements by standards of units of one level of accuracy ;

"Measuring device" means the technical means for measuring, that has metrological characteristics;

"Standard model" means the material (substance) with established performance measurement accuracy and metrological traceability, sufficiently homogeneous and stable

with respect to certain properties in order to use it in the measurement or estimation of qualitative properties in accordance with the intended use;

"approval of a type of a measuring device" means the decision of a public authority of the member State in the field of ensuring unity of measurements on permission to apply of an approved type of measuring device on the territory of a member State on the basis of positive test results;

"approval of the type of standard sample " means the decision of a public authority of the member State in the field of ensuring unity of measurements on the permission to apply the standard sample type on the territory member State on the basis of positive test results;

"value scale" means an ordered set of values of the quantity serving as a reference for measuring the corresponding value;

"unit of value standard " means a technical device (set of tools) intended for reproduction, storage and transmission of unit size or value scale.

3 . Member States shall conduct a coordinated policy in the field of ensuring uniformity of measurements through the harmonization of legislation of member States in the area of traceability and concerted action that ensure:

1) the establishment of mechanisms of mutual recognition of work in the area of ensuring uniformity of measurements through the adoption of rules for mutual recognition of the results of work to ensure uniformity of measurement;

2 ) the use of standards of unit value, measurement devices, reference materials and certified methodologies (methods) for which member States provided metrological traceability obtained their results using the International System of Units ( SI) , national ( primary ) and standards (or ) to international standards units;

3) the mutual provision of information in the area of ensuring uniformity of measurements, contained in the existing information funds of member States;

4) application of the coordinated procedures of work in the area of ensuring uniformity of measurements.

4. Member States shall take measures aimed at the harmonization of the legislation of member States in the area of ensuring uniformity of measurements in relation to

establishment of the requirements to measurements, value units, standards of value units, and scales of values, measurements devices, reference samples, methodologies (methods) of measurements based on the documents adopted by international and regional organizations on metrology and standardization.

5. Member States shall carry out mutual recognition of the results of work in the area of ensuring uniformity of measurements, conducted by the public authorities or legal persons of member States authorized (notified) in accordance with the legislation of its state to perform activities in the area of ensuring uniformity of measurements according to the approved procedures for conducting this works and rules of mutual recognition of works to ensure uniformity of measurements.

Recognition of the work in the area of traceability is performed with respect to measuring instruments manufactured in the territories of member States.

6. To ensure metrological traceability of measurement results, value unity standards, reference samples of the member States to national (primary) standards and the International System of Units (SI ), the member States shall organize the work on establishment and improvement of standards of value units, identification and development of nomenclature of standard samples, establishment of the equivalence of value unit standards of member States through their regular comparisons.

7. Normative legal acts of the member States, regulatory and international instruments , international treaties of the member States in the area of ensuring uniformity of measurements, certified methodologies (methods) of measurement, measuring devices in the regulated areas of the member States , information on value unity standards and value scales, approved types of standard samples and approved types of measuring devices form information funds of the member States in the area of ensuring uniformity of measurements.

Maintenance of information funds is carried out in accordance with the legislation of the member States, mutual provision of information contained in the information funds is organized by public authorities of the member States referred to in paragraph 5 of this Protocol, in the manner prescribed by the Commission.

8. Member States shall authorize with the relevant functions the state authorities in the area of ensuring uniformity of measurements, who hold consultations aimed at coordinating the positions of the member States, and shall coordinate and carry out works in the area of ensuring uniformity of measurements.

9. Commission approves the following documents:

1) the list of off-system value units used in the development of technical regulations of the EAEU , including their relations with the International System of Units (SI);

2) the rules of mutual recognition of works to ensure uniformity of measurements;

3) the orders of conducting works in the area of ensure uniformity of measurements, including :

procedures for metrological examination of draft technical regulations of the EAEU, the draft list of standards the use of which, on a voluntary basis, ensures compliance with the technical regulations of the EAEU, the draft list of standards containing rules and methods of research (tests) and measurements, including the rules of sampling necessary for the application and enforcement of the technical regulations of the EAEU and of conformity assessment of objects of technical regulating;

procedure of organization of inter-laboratory comparison tests (inter-laboratory comparisons );

procedure of metrological attestation methodology (method) of measurement;

procedure of attestation of methodology (method) of measurement considered as reference methodology (method) of measurement;

procedure for approval of the type of measuring device;

procedure for approval of the of standard sample;

procedure of organization of verification and calibration of a measuring instrument;

4 ) the procedure for mutual provision of information in the area of ensuring uniformity of measurements, contained in the information funds of the member States .



PROTOCOL  
on Acceptance of the Results of Works on Accreditation  
of the Conformity Assessment Bodies

1. This Protocol is developed in accordance with Section X of the Treaty on the Eurasian Economic EAEU (hereinafter - Treaty), and defines the conditions for mutual recognition of the results of the accreditation of conformity assessment bodies.

2. Definitions used in this Protocol are as follows:

"Appeal" means an appeal of the body for conformity assessment to the accreditation body for reconsideration of the decision taken by the accreditation body in respect of the conformity assessment body;

"Attestation of the expert on accreditation" means confirmation of compliance of the physical person with the established requirements of and the recognition of its competence to conduct works on accreditation;

"Complaint" means a statement that contains an expression of dissatisfaction with the actions (or inaction) of the conformity assessment body or accreditation body by any person and requiring an answer;

"Applicant for accreditation" means a legal entity registered in accordance with the legislation of the member States and claiming to be accredited as a conformity assessment body;

"Accreditation body" means the body or juridical entity authorized under the legislation of the member State to carry out accreditation;

"Technical expert" means a physical person who possesses special knowledge in a particular field of accreditation, called and appointed by the accreditation body to

participate in the accreditation of conformity assessment bodies and included in the register of technical experts;

"Expert on accreditation" means a physical person designated and certified by the accreditation body in accordance with the legislation of a member State to carry out the procedure of accreditation of conformity assessment bodies and included into the register of experts on accreditation.

3. Member States shall carry out the harmonization of legislation in the field of accreditation by:

adoption of the rules in the field of accreditation based on international standards and other documents adopted by international and regional organizations for accreditation;

use of interstate standards in accreditation, developed on the basis of international standards;

provision and organization of inter-laboratory comparison test (inter-laboratory comparisons);

information exchange in the field of accreditation based on the principles of openness of information, gratuitousness and timeliness.

Member States mutually recognize the accreditation of conformity assessment bodies (including certification bodies and testing laboratories (centers)) in the national accreditation systems of the member States provided the accreditation bodies meet the provisions of Article 54 of the Treaty.

4. Accreditation bodies exercise the following powers:

1) carry out the formation and maintenance of:

register of accredited conformity assessment bodies;

register of experts on accreditation;

registry of technical experts;

national part of a common registry of conformity assessment bodies of the EAEU;

2) provide information from registers of accredited conformity assessment bodies, accreditation experts and technical experts, as well as other information and documents related to accreditation and provided by the Treaty to the integrated information system of the EAEU;

3) provide an opportunity for representatives of accreditation bodies to carry out mutual comparative assessments in order to achieve equivalence of procedures applied in the member States;

4) consider and decide on the appeals filed by conformity assessment bodies to revise the decisions taken by the accreditation body in respect of these conformity assessment bodies;

5) consider and adopt decisions on complaints from individuals or legal entities of member States on the activities of accreditation bodies, as well as on the activities of accredited conformity assessment bodies.

5. Current information about the accreditation body is provided by it to the Commission for placing on the official website of the EAEU on the Internet.

6. In order to ensure an equivalent level of competence of accreditation experts and technical experts accreditation bodies ensure harmonization of requirements for the competence of accreditation experts and technical experts.

ANNEX 12  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on the Application Of Sanitary, Veterinary And Sanitary And Phytosanitary Quarantine  
Measures

I. General Provisions

1. This Protocol is developed in accordance with Section XI of the Treaty on the Eurasian Economic Union and defines the application of sanitary, veterinary and sanitary and phytosanitary quarantine measures.

2. Definitions used in this Protocol are as follows:

"Audit of the foreign official supervision system" - a procedure for determining the ability of a foreign official supervision system to ensure level of safety of goods subject to veterinary control (supervision), minimum equivalent to common veterinary (veterinary-sanitary) requirements;

"Veterinary Control (Supervision)" – activity of authorized bodies in the veterinary field aimed at preventing the importation and distribution of pathogens of contagious animal diseases, including those common to humans and animals, and goods no compliant with veterinary (veterinary-sanitary) requirements, as well as prevention, detection and suppression of violations of the requirements of international agreements and acts constituting the law of the EAEU and legislation of the member States in the veterinary field;

"Veterinary-Sanitary Measures" - binding requirements and procedures used for the prevention of animal diseases and to protect people from diseases common to humans and animals, in connection to emerging risks, including in the case of transfer or spreading of

them by animals with feed, raw materials and products of animal origin as well as vehicles transporting them, within the customs territory of the EAEU;

"Veterinary certificate" - a document issued by the competent authority in the veterinary field on goods subject to veterinary control (supervision), subject to movement (transportation), and certifying their safety in veterinary-sanitary relation and (or) the welfare of the administrative territories of places of production of these goods in relation to contagious diseases of animals, including diseases common for human and animals;

"State registration" - the procedure of assessment of conformity of products to common sanitary-epidemiological and hygienic requirements or the requirements of the technical regulations of the EAEU, performed by the authorized body in the field of sanitary-epidemiological welfare of the population;

"State sanitary-epidemiological supervision (control)" - activity of authorized bodies in the field of sanitary-epidemiological welfare of the population, aimed at the prevention, detection and suppression of violations of mandatory requirements established by the Commission and the legislation of the member States in the field of sanitary-epidemiological welfare of the population;

"Common veterinary (veterinary-sanitary) requirements" - requirements for goods controlled by the veterinary control (supervision), their circulation and objects subject to veterinary control (supervision), aimed at preventing the emergence, import and distribution in the customs territory of the EAEU pathogens contagious animal diseases, including those common to humans and animals, and animal products, dangerous in veterinary-sanitary relation;

"Common quarantine phytosanitary requirements" - requirements to quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) subject to quarantine phytosanitary control (supervision) on customs border of the EAEU and in the customs territory of the EAEU, its circulation and to quarantine objects, aimed at preventing the emergence, importation and distribution in the customs territory of the EAEU of quarantine objects;

"Common rules and standards for ensuring plant quarantine" - rules, procedures, instructions, methods of quarantine phytosanitary inspections, screening methods of

quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) subject to quarantine phytosanitary control (supervision) on customs border of the EAEU and in the customs territory of the EAEU, the identification of quarantine objects, laboratory testing and examination, disinfection and other important activities carried out by the competent authorities on plant quarantine;

"Common sanitary-epidemiological and hygienic requirements for products (goods) subject to sanitary and epidemiological supervision (control)" - a document containing mandatory requirements established by the Commission to the products (goods) subject to sanitary-epidemiological supervision (control) for preventing harmful effects of environmental factors to human and for providing favorable conditions for human life ;

"Animals" - all kinds of animals, including birds, bees, aquatic animals and wildlife species;

"Quarantine of plants" - the legal regime providing for a system of measures for the protection of plants and plant products from quarantine objects in the customs territory of the EAEU;

"Quarantine Objects" - pests, absent or limitedly present in the territories of the member States and included into the Common list of quarantine objects of the EAEU;

"Quarantine Phytosanitary Security" - ensuring state of security of the customs territory of the EAEU from the risks arising from the entering and (or) distribution of quarantine objects;

"Quarantine Phytosanitary Control (Supervision)" - activity of authorized bodies on quarantine of plants, aimed at identifying quarantine objects, determination of quarantine phytosanitary state of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods), fulfillment of international obligations and compliance with the legislation of the member States in the field of plant quarantine;

"Quarantine Phytosanitary Measures" - the binding requirements, rules and procedures used to ensure protection of the customs territory of the EAEU from the introduction and spread of quarantine objects and to reduce the losses caused by them, as

well as the elimination of barriers to international trade caused by the quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods);

"Object subject to veterinary control (supervision)" - an organization or person involved in the manufacturing (production), processing, transportation and (or) storage of goods subject to veterinary control (supervision);

"Batch of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods)" - the quantity of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods), intended for sending by one vehicle to one destination to one recipient;

"Batch of goods subject to veterinary control (supervision) " - the quantity of goods subject to veterinary control (supervision) intended for sending by one vehicle to one destination to one recipient and formalized in one veterinary certificate;

"Quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods)" - the plants, products of plant origin, loads, soil, organisms, materials, containers, packaging, included in the List of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) subject to quarantine phytosanitary control (supervision) at the customs border of the EAEU and in the customs territory of the EAEU, and moved across the customs border of the EAEU and through the customs territory of the EAEU that may be carriers of quarantine objects and (or) contribute to their distribution and in relation to which it is necessary to adopt quarantine phytosanitary measures;

"Quarantineable objects" - land of any purpose, buildings, plants, reservoirs, storage areas, equipment, vehicles, containers and other objects that can be sources of entering into the customs territory of the EAEU and (or) distribution on it of quarantine objects;

"Products (goods) subject to state sanitary-epidemiological supervision (control)" - goods, chemical, biological and radioactive substances, including sources of ionizing radiation, waste and other loads presenting a danger to human, food products, materials and products included in the Common list of products (goods) subject to sanitary-epidemiological supervision (control), moved across the customs border of the EAEU and through the customs territory of the EAEU;

"Goods subject to veterinary control (supervision)" - goods included in the Common list of goods subject to veterinary control (supervision);

"Products subject to state registration" - certain types of products that can have adverse effects on human life and health in their circulation and the safety of which is confirmed by the fact of having state registration;

"Permit to import (export) or transit goods subject to veterinary control (supervision)" - a document that defines the procedure and conditions for use of goods subject to veterinary control based on epizootic state of exporting countries in the import and transit of goods subject to veterinary control issued by the official of authorized official body in the veterinary field authorized under the legislation of the member States;

"Sanitary, veterinary-sanitary and quarantine phytosanitary measures" - binding sanitary, veterinary-sanitary and quarantine phytosanitary requirements and procedures applicable for purposes of:

protection of life and health of human and animal from risks arising from additives of contaminants, toxins or disease-causing organisms in foods, beverages, animal feed and other products;

protection of life and health of animals and plants from the risks arising from the entry, establishment (fixation) or spread of pests of plants and pathogens of plant and animals, plants (weeds), organisms - disease vectors or pathogens of quarantine significance for the member States;

protection of human life and health from risks arising from diseases carried by animals, plants or products thereof;

prevention or limitation of other damage from the entry, establishment (fixation) or spread of pests of plants and pathogens of plants and animals, plants (weeds), pathogens of quarantine significance for the member States, including in the case of transfer or spreading of them by animals and (or) plants, with products, loads, materials, vehicles;

"Sanitary-quarantine control" - kind of state sanitary-epidemiological supervision (control) in relation to persons, vehicles and products (goods) subject to sanitary epidemiological supervision (control) at checkpoints across the customs border of the EAEU, on the interstate transfer railway stations or butt stations in order to prevent the



entry of potentially hazardous to human health products (goods), importation, emergence and spread of infectious and mass non-infectious diseases (poisoning);

"Sanitary-antiepideiological measures" - the organizational, administrative, engineering, medical-sanitary, preventive and other measures directed on the risk assessment of adverse impact on human of environmental factors, elimination or reduction of such risk, prevention of the occurrence and spread of infectious diseases and mass non-infectious diseases (poisoning) and their elimination;

"Sanitary-epidemiological welfare of population" - the state of health of population, environment in which there is no adverse impact of environmental factors on human and favorable conditions of human life are provided;

"Sanitary measures" - the binding requirements and procedures, including the requirements to the final product, processing methods, manufacturing, transportation, storage and disposal, sampling procedures, methods of researches (tests), risk assessment, state registration, requirements for labeling and packaging, directly directed at ensuring the safety of products (goods) for purpose of protection of human life and health;

"Certificate of state registration" - a document confirming safety of products (goods), certifying the conformity of products (goods) to common sanitary-epidemiological and hygienic requirements and issued by the authorized body in the field of sanitary-epidemiological welfare of the population in a single form and in the manner, approved by the Commission;

"Authorized body in the veterinary field" - public authorities and institutions of the member States operating in the veterinary field;

"Authorized body in the field of sanitary-epidemiological welfare of the population" - public authorities and institutions of the member States operating in the field of sanitary-epidemiological welfare of the population in accordance with the legislation of the member States and the acts of the Commission;

"Authorized bodies on quarantine of plants" - the national organization of quarantine and protection of plants;

"Phytosanitary control post" - point on quarantine of plants made at checkpoints across the customs border of the EAEU and in other places determined in accordance with the legislation of the member States;

"Phytosanitary Certificate" - the document of the international standard accompanying the quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) and issued by the authorized body on plant quarantine of the exporting (re-exporting) country in the form prescribed by the International Convention on Quarantine and Protection of Plants of December 6, 1951, and certifying that the quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) comply with the phytosanitary requirements of the importing country;

"Epizootic State" - veterinary-sanitary situation in a certain area at the specified time, characterized by the presence of animal diseases, their distribution and incidence.

## II. Sanitary Measures

3. State sanitary-epidemiological supervision (control) at the customs border of the EAEU and in the customs territory of the EAEU shall be conducted in the order approved by the Commission.

4. The member States shall create at checkpoints designed for transportation of products (goods) subject to state sanitary-epidemiological supervision (control) through the customs border of the EAEU, sanitary-quarantine stations and take measures necessary for the sanitary-antiepидemiological measures.

The member States shall implement sanitary-quarantine control in specially equipped and provided with means for carrying out sanitary-epidemiological measures sanitary-quarantine stations in accordance with the legislation of the member States taking into account the requirements approved by the Commission.

The Commission shall determine the list of products, transportation of which across the customs border of the EAEU is carried out in specially equipped checkpoints defined

in accordance with the legislation of the member States and the acts constituting the laws of the EAEU.

Circulation of products subject to state registration in accordance with the Commission acts shall be carried out in the territory of the EAEU in the presence of state registration.

5. The member States shall:

1) adopt coordinated measures directed at preventing the importation, distribution and elimination in the customs territory of the EAEU of the infectious and mass non-infectious diseases (poisonings), hazardous to human health, consequences of emergencies, as well as acts of terrorism involving biological agents, chemical and radioactive substances;

2) carry out sanitary-antiepideiological measures to prevent the import into the customs territory of the EAEU and circulation of products (goods) subject to state sanitary-epidemiological supervision (control) dangerous to human life, health and habitat

6. The member States have the right to impose temporary sanitary measures and carry out sanitary-antiepideiological measures in the case of:

deterioration of sanitary-epidemiological situation in the territory of the member State;

receiving information from relevant international organizations, the member States or third countries on applied sanitary measures and (or) deterioration of sanitary-epidemiological situation;

if appropriate scientific justification for the use of sanitary measures is insufficient or can not be presented within the required timeframe;

identifying of products (goods) subject to state sanitary-epidemiological supervision (control) that do not comply with common sanitary requirements or technical regulations of the EAEU.

The member States as soon as possible shall notify each other on the introduction of sanitary measures, conducting sanitary-antiepideiological measures and their changes.

In case of introduction of temporary sanitary measures by the member State, other member States shall take necessary measures and conduct sanitary-antiepidemiological measures providing an adequate level of protection of the member State that took the decision to introduce such measures.

7. Authorized bodies in the field of sanitary and epidemiological welfare of the population:

carry out the sanitary-epidemiological supervision (control) in relation to persons, vehicles, subject to state sanitary-epidemiological supervision (control) during transportation across the customs border of the EAEU in checkpoints of the member States, located on the customs border of the EAEU and in the customs territory of the EAEU;

have the right to request from the authorized bodies of other member States the necessary protocols of laboratory researches (tests);

provide mutual scientific-methodological and technical assistance in the field of sanitary-epidemiological welfare of the population;

inform each other about possible arrival of goods not conforming to the common sanitary-epidemiological and hygienic requirements, of each case of finding especially dangerous infectious diseases specified in the international medical-sanitary regulations, and dangerous to human life and health products;

if necessary and by mutual agreement in order to comply with the requirements established by the acts, constituting the laws of the EAEU, in the field of sanitary measures and the protection of the customs territory of the EAEU from importation and spread of infectious and mass non-infectious diseases (poisonings), subject to the state sanitary-epidemiological supervision (control) of products (goods) that do not comply with sanitary-epidemiological and hygienic requirements and to promptly solve other issues carry out joint audits (inspections) in the territories of the member States producing products (goods) subject to state sanitary-epidemiological supervision (control).

Authorized bodies in the field of sanitary-epidemiological welfare of the population in the event of detection of infectious and non-infectious mass diseases (poisonings) and (or) distribution in the customs territory of the EAEU of products dangerous to human life,

health and habitat, send information about them, as well as sanitary measures taken to the integrated information system of the EAEU.

8. Financing of costs associated with conducting joint audits (inspections) is carried out by the corresponding budgets of the member States, if in a particular case it is not agreed otherwise.

### III. Veterinary-Sanitary Measures

9. Veterinary control (supervision) on the customs border of the EAEU and in the custom territory of the EAEU shall be carried out in accordance with the provision of a common order of implementation of veterinary control at the customs border of the EAEU and in the customs territory of the EAEU, approved by the Commission.

10. The member States shall create at checkpoints designated for transportation of goods subject to veterinary control across the customs border of the EAEU, veterinary border control stations and take the necessary veterinary-sanitary measures.

11. Authorized bodies in the veterinary field shall:

1) take measures to prevent the import and distribution in the customs territory of the EAEU of agents of contagious animal diseases, including common to humans and animals, and goods (products) of animal origin, dangerous in veterinary-sanitary relation;

2) in case of detection and distribution in the territory of the member State of contagious animal diseases, including common to humans and animals, and (or) goods (products) of animal origin, dangerous in veterinary-sanitary relation, immediately, after the official diagnosis or confirmation of unsafety of goods (products), send information to the Commission about them, as well as about the taken veterinary-sanitary measures to the integrated information system of the EAEU, as well as for notifying the authorized bodies of other member States;

3) promptly notify the Commission of any changes made to the list of dangerous and quarantine animal diseases of the member State;

4) provide mutual scientific, methodological and technical assistance in the veterinary field;

5) carry out audit of foreign official supervision system in order approved by the Commission.

12. Joint audit (inspection) of objects subject to veterinary control (supervision) shall be carried out in accordance with the provision of a common procedure of conducting joint inspections of objects and sampling of goods subject to veterinary control (supervision).

Financing of costs associated with the auditing of foreign official supervision system and joint audits (inspections) are carried out by the corresponding budgets of the member States, if in a particular case it is not agreed otherwise.

13. The Commission shall establish the Rules and methodology of laboratory researches in the implementation of the veterinary control (supervision).

14. The Commission and legislation of the member States shall establish Rules governing circulation of veterinary medicines, veterinary diagnostic means, feed additives, disinfectants, desinsection and acarid elimination means.

15. Based on common veterinary (veterinary-sanitary) requirements and international recommendations, standards, guidelines the member States may negotiate with the competent authorities of the exporting country (the third party) the samples of veterinary certificates for imported into the customs territory of the EAEU goods subject to veterinary control included in the Common list of goods subject to veterinary control (supervision) different from uniform forms, in accordance with the acts of the Commission.

16. Goods subject to veterinary control placed under the customs transit procedure, are moved through the customs territory of the EAEU in the order prescribed by the Commission.

Issuance of permit for import (export) and transit of goods subject to veterinary control and issuance of veterinary certificates are carried out by the authorized body in the veterinary field in accordance with the legislation of that member State.

17. The Commission shall approve Uniform forms of veterinary certificates.

#### IV. Quarantine Phytosanitary Measures

18. Quarantine phytosanitary control (supervision) on the customs border of the EAEU and in the territory of the EAEU shall be conducted in the order approved by the Commission.

19. The Commission shall approve the common rules and regulations for ensuring the quarantine of plants.

20. The member States shall create at checkpoints designated to move quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) through the customs border of the EAEU, and in other places points on quarantine of plants (phytosanitary control posts) with taking into account the requirements for their material and technical equipping, approved by the Commission.

21. The member States shall take the necessary measures to prevent the importation into the customs territory of the EAEU and the spread on it of quarantine objects.

22. Authorized bodies on plant quarantine shall:

1) carry out quarantine phytosanitary control (supervision) in importation of quarantineable products through the customs border of the EAEU at checkpoints and in other places where there are equipped and fitted points on quarantine of plants (phytosanitary control posts);

2) implement quarantine phytosanitary control (supervision) in importation of quarantineable products from the territory of one member State to the territory of another member State;

3) in case of detection and spread of quarantine objects in the customs territory of the EAEU send information about them, as well as on quarantine phytosanitary measures taken to the integrated information system of the EAEU;

4) promptly inform each other of cases of detection and spread of quarantine objects in the territory of their countries and the introduction of temporary quarantine phytosanitary measures;

5) provide each other scientific, methodological and technical assistance in the field of plant quarantine;

6) annually exchange statistical information on the previous year concerning the detection and spread of quarantine objects in the territory of their countries;

7) exchange information relating to quarantine phytosanitary condition of the territories in the member States, and, if necessary, other information, including information about effective methods of combating quarantine objects;

8) develop proposals for the formation of the list of regulated non-quarantine pests, common list of quarantine objects of the EAEU on the basis of pest information;

9) interact on other issues in the field of quarantine phytosanitary control (supervision);

10) by mutual agreement:

send experts to conduct a joint inspection of places of production (manufacturing), sorting, processing, storage and packaging of quarantineable products imported into the customs territory of the EAEU from third countries;

participate in the development of common rules and standards for ensuring plant quarantine.

23. Each batch of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods), classified according to the list of quarantineable products to the group of quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) with high phytosanitary risk, are imported into the customs territory of the EAEU and (or) moved from the territory of one member State to the territory of another member State with export (re-export) phytosanitary certificate.

24. The Commission shall approve order of laboratory provision of quarantine phytosanitary measures.

25. Each member State has the right to develop and implement temporary quarantine phytosanitary measures in the case of:

1) deterioration of quarantine phytosanitary situation in its territory;

2) receiving from the relevant international organizations, member States and (or) third countries of information about taking quarantine phytosanitary measures;

3) if appropriate scientific justification for the use of quarantine phytosanitary measures is insufficient or can not be provided within the required timeframe;



4) systematic finding of quarantine objects in quarantineable products (quarantineable loads, quarantineable materials, quarantineable goods) imported from third countries.

ANNEX 13  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Coordinated Policy in the Field of Consumer Rights Protection

1. This Protocol is developed in accordance with Section XII of the EAEU Treaty and defines the principles of conduction by the member States of agreed policy in the field of protection of the rights of consumers and its main directions.

2. Definitions used in this Protocol are as follows:

"Member State's legislation on the protection of consumer rights" - the sum of legal norms that are in force in the member State and that regulate relations in the field of consumer protection;

"Manufacturer" - the organization regardless of ownership, as well as individual registered as an individual entrepreneur, producing goods for sale to consumers;

"Performer" - the organization regardless of ownership, as well as individual registered as an individual entrepreneur, performing work or providing services to consumers;

"Unscrupulous Economic Subjects" - sellers, manufacturers, performers, allowing in their activity violations of the law of the member States on protection of rights of consumers, business practices, if these violations may cause or has caused material or non-material harm to consumers and (or) the environment;

"Associations of consumers" - registered under the laws of the member States non-profit associations (organizations) of citizens and (or) legal persons established in order to protect the legitimate rights and interests of consumers, as well as international non-governmental organizations operating in the territories of all or several member States;

"Consumer" - an individual who intends to order (purchase) or ordering (purchasing, using) goods (works, services) exclusively for personal (household) needs, not related to implementation of business activity;

"Seller" - an organization regardless of ownership, as well as the individual registered as an individual entrepreneur, selling goods to consumers under a contract of sale;

"Competent authorities in the protection of rights of consumers" - public authorities of the member States performing control (supervisory) activities and (or) legal regulation in the field of consumer rights protection in accordance with the laws of the member States, international treaties and acts constituting the laws of the EAEU.

## II. Implementation of Main Directions of Policy in the Field of Consumer Rights Protection

3. In order to form for the citizens of member States an equal conditions for protection of the legitimate rights and interests of consumers the member States implement conducting of coordinated policy in the field of protection of rights of consumers under the laws of the member States on the protection of consumers rights and norms of international law in this area in the following main directions:

1) providing consumers, public authorities and public associations of consumers with the timely and accurate information about the goods (works, services), manufacturers (sellers, performers);

2) taking measures to prevent activities of unscrupulous business subjects and sales of not quality (services) in the territories of the member States;

3) creation of conditions for consumers, promoting the free choice of goods (works, services), through the development of legal literacy and legal awareness of consumers, their awareness of the nature, ways of implementation of consumer rights protection and protected by law interests in the administrative and judicial order, as well as access of consumer of member States to qualified legal assistance;

- 4) implementation of education programs in the field of consumer protection as an integral part of training citizens in the educational systems of the member States;
- 5) involvement of the media, including radio and television, in the propaganda and systematic coverage of issues of consumer protection;
- 6) approximation of laws of the member States on the protection of consumer rights.

### III. Interaction with the Public

#### Associations of Consumers

4. Member States shall contribute to the creation of conditions for the activities of independent associations of consumers, their participation in the formation and implementation of coordinated policy in the field of protection of the rights of consumers, propaganda and explaining the rights of consumers as well as to establishing a system of information exchange in the field of consumer protection between the member States.

### IV. Interaction of the Authorized Bodies in the Field of Consumer Rights Protection

5. Interaction of the authorized bodies in the field of consumer protection is implemented through:

- 1) the exchange of information:

on the practices of member States in the field of state and public consumer rights protection;

on measures on improving and providing the functioning of the system of control of compliance with legislation of the member States on the protection of consumer rights;

on changes in the legislation of the member States on the protection of consumer rights;

- 2) cooperation in the prevention, detection and suppression of violations of the legislation of the member States on the protection of consumer rights by residents of the

member States, including the exchange of information about the revealed violations of consumer rights in the domestic market, including on the basis of requests of the authorized bodies in the field of consumer rights protection;

3) conduction of collaborative analyzes on issues affecting the mutual interests of the member States in the field of consumer rights protection;

4) providing practical assistance on issues arising in the process of cooperation, including the establishment of working groups, exchange of experience and training of personnel;

5) organization of exchange of statistical information on the results of activity of the authorized bodies in the field of consumer rights protection and public associations of consumers;

6) implementation of joint actions on other issues of cooperation.

## V. Powers of the Commission

6. The Commission executes the following powers:

1) provides recommendations for the member States on applying measures directed at improving the efficiency of interaction between the authorized bodies in the field of consumer rights protection;

2) makes recommendations to the member States on the order of implementation of the provisions specified in this Protocol;

3) creates a consultative body for the protection of consumer rights of the member States.

ANNEX 14  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L  
on Conducting of Coordinated Macroeconomic Policy

I. General Provisions

1. This Protocol is developed in accordance with Articles 62 and 63 of the Treaty on the Eurasian Economic Union (hereinafter - the Treaty), and defines the order of conducting by the member States of coordinated macroeconomic policy.

2. Definitions used in this Protocol are as follows:

"External parameters of forecasts" - indicators that characterize the external factors that have a significant impact on the economy of the member States, and are used in the development of the official forecasts of socio-economic development of the member States;

"Interval quantitative values of the external parameters of forecasts" - the upper and lower values of the interval of external parameters of forecasts;

"Macroeconomic indicators" - parameters characterizing the state of the economy of the member State, its development and resistance to adverse factors, as well as the degree of integration cooperation;

"Main directions of the economic development of the EAEU" - recommendatory document that identifies perspective areas of social and economic development that the member States seek to implement through the use of integration potential of the EAEU and competitive advantages of the member States in order to obtain additional economic benefits by each member State;

"Basic guidelines of macroeconomic policy of the member States"- a program document that determines the most important for the economy of the member States short term and medium term objectives directed at achieving the objectives established by the main directions of economic development of the EAEU, as well as include recommendations on solution of these problems.

## II. Realization of Main Directions of Coordinated Macroeconomic Policy

3. In order to implement the basic directions of coordinated macroeconomic policy, the member States:

1) coordinate economic policy on the use of the integration potential of the EAEU and competitive advantages of the member States in those areas and sectors of the economy where it is necessary or expedient;

2) take into account in conducting a coordinated macroeconomic policy main directions of economic development of the EAEU, the basic guidelines of macroeconomic policy of the member States;

3) develop official forecasts of social and economic development of the member States, taking into account the established interval quantitative values of the external parameters of forecasts;

4) conduct coordinated macroeconomic policy in framework of thresholds specified in Article 63 of the Treaty quantitative parameters of macroeconomic indicators determining the sustainability of economic development;

5) develop and implement with the participation of the Commission measures, including joint measures, if macroeconomic indicators that determine the sustainability of economic development of the member State do not meet the quantitative parameters established by Article 63 of the Treaty, and, if necessary, take into account the recommendations of the Commission, directed at stabilizing the economic situation in accordance with the procedure approved by the Commission;

6) consult on issues related to the current economic situation in the member States for developing proposals directed at stabilizing the economy.

## II. Competence of the Commission

4. The Commission coordinates and conducts by the member States of coordinated macroeconomic policy through:

1) Monitoring of:

macroeconomic indicators determining the sustainability of economic development of the member States, calculated according to the methodology approved by the Commission, and their compliance with the quantitative parameters established by Article 63 of the Treaty;

indicators of the level and dynamics of economic development and integration indicators defined in Section IV of this Protocol;

2) development in coordination with the member States of the following documents approved by the Supreme Council:

main directions of economic development of the EAEU;

basic guidelines of macroeconomic policy of the member States;

joint measures directed at stabilizing the economic situation, in the case of exceeding by the member States of stated in Article 63 of the Treaty quantitative parameters of macroeconomic indicators determining the sustainability of economic development;

3) development of:

recommendations directed at stabilizing the economic situation in the case of exceeding by the member States of stated in Article 63 of the Treaty quantitative parameters of macroeconomic indicators determining the sustainability of economic development;



in analytical (reference) purposes of forecasts of socio-economic development of the EAEU on the basis of the established interval quantitative values of the external parameters of forecasts;

4) facilitation in conducting consultations on issues related to the current economic situation in the member States for developing proposals directed at stabilizing the economy;

5) coordination with member States of approved by the Commission interval quantitative values of the external parameters of the forecasts, for preparation of official forecasts of socio-economic development of the member States;

6) analysis:

of impact of the decisions taken on the conditions of economic activity and entrepreneurial activity of business subjects of the member States;

of measures of coordinated macroeconomic policy in terms of their compliance with the main guidelines of the macroeconomic policy of the member States;

7) of exchange of information between the authorized bodies of the member States and the Commission for purpose of conducting a coordinated macroeconomic policy. Order of such an exchange is approved by the Commission.

#### IV. Indicators of the Degree of Integration, the Level and Dynamics of Development of Economy, External Parameters of Forecasts

5. To determine the degree of integration there are used the following indicators:

1) volume of national investments directed into the economy of each member State, including direct investments (in U.S. dollars);

2) volume of investments that arrived into the national economy of each member State, including direct investments (in U.S. dollars);

3) the share of each member State in the total exports of the member State (in percentage);

4) the share of each member State in the total imports of the member State (in percentage);

5) the share of each member State in the total foreign trade turnover of the member State (in percentage).

6. To determine the level and dynamics of the economy there are used the following indicators:

1) growth in gross domestic product (in percentage);

2) gross domestic product per capita at purchasing power parity (in U.S. dollars);

3) current account balance of payments (in U.S. dollars and in percentage of GDP);

4) index of the real effective exchange rate of the national currency, calculated on the basis of the consumer price index (in percentage).

7. Commission in coordination with the member States may decide to conduct monitoring of other indicators of degree of integration and economic development of the member States other than those referred to in paragraphs 5 and 6 of this Protocol, respectively.

8. Member States agree on 3 year period the following interval quantitative values of the following external parameters of forecasts:

rate of growth of the global economy;

prices of Brent oil.

Executive state bodies are authorized to produce official forecasts of socio-economic development of the member States exchanging also estimated information on the current and projected state of foreign trade operations, including in mutual trade.

For the formation of official forecasts of socio-economic development of separate member States Russian Federation gives to the specified authorized bodies' information on the indicative range of variation of the projected price for natural gas supplied for domestic consumption in order approved by the Commission.

This information provided by the Russian Federation for purpose of macroeconomic forecasting is not an obligation of the Russian Federation at the price of natural gas supply in the member States in the forecast period.

National (central) banks of the member States shall inform each other on the ongoing exchange rate policy.

9. Information exchange for macroeconomic forecasting is carried out with taking into account the requirements of the member States to confidentiality of relevant information.

10. Supreme Council may decide to revise the external parameters of forecasts used in the development of official forecasts of social and economic development of the member States.

ANNEX 15  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L  
on Measures Aimed at Coordinated Monetary Policy

I. General Provisions

1. This Protocol is developed in accordance with the Article 64 of the treaty on the Eurasian Economic Union and determines the measures taken by the member States for the purposes of conducting coordinated monetary policy.

2. The terms used in this Protocol shall determine following:

“Monetary legislation” – are the legislative acts of the member States in the sphere of monetary regulation and monetary control and normative legal acts adopted for their implementation;

“Monetary restrictions” – are the restrictions on monetary transactions denominated in its direct prohibition, limitation of volume, amount and timing of its conducting, currency of payment, and in determination of the requirements for obtaining special approvals (licenses) for its conducting, reserving a part, total amount or an amount which is multiple to full amount of monetary transactions as well as limitations associated with opening and maintaining accounts in the territories of the member States, and requirements for mandatory sale of foreign currency established by the international agreements and acts constituting the legislation of the EAEU or monetary legislation of the member States;

“Integrated monetary market” – is a set of the domestic monetary markets of the member States united by common principles of functioning and government regulation;

“Liberalization measures” – are the actions aimed at decrease or elimination of monetary restrictions regarding the monetary transactions between the residents of the

member States as well as with respect to the transactions with the residents of the Third Countries;

“Resident of a member State” – is a person who is a resident of one of the member States in accordance with the monetary legislation of this member State;

“Resident of a Third Country” – is a person who is not a resident of any of the member States;

“Authorized organizations” – are juridical persons, which shall be the residents of the member States and have the powers for conducting the banking transactions in foreign currency in accordance with the legislation of the State of its institution;

“Competent currency control authorities” – are the executive bodies and other governmental agencies of the member States having the powers for currency control and national (central) banks of the member States.

The member States shall apply the concept of "non-resident" when regulating the monetary relations in accordance with the national monetary legislation.

## II. Measures Aimed at Conducting Coordinated Monetary Policy

3. To conduct coordinated monetary policy the member States shall take the following measures:

1) coordinating the exchange rate policy of national currencies (hereinafter - exchange rate policy) to ensure widening the use of national currencies of the member States in their mutual settlements of the residents of the member States, including the organization of conducting mutual consultations for the purposes of developing and coordinating the exchange rate policy;

2) ensuring the convertibility of national currencies on current and capital balances of payments figure without limitations by creating conditions for the possibility of buying and selling foreign currency by the residents of the member States through the banks of the member States without restrictions;

3) creating conditions for mutual direct quotations of national currencies of the member States;

4) providing mutual settlements between the residents of the member States in national currencies of the member States;

5) improving the mechanism for payment and settlement relations between the member States on the basis of widening the use of national currencies in mutual settlements between the residents of member States;

6) avoiding the multiplicity of official exchange rates, preventing the mutual trade between the residents of the member States;

7) establishing the official exchange rates of national currencies of the member States based on the rates, which are actual on the stock market, or on cross rates of national currencies of the member States to U.S. Dollar by the central (national) banks of the member States;

8) exchanging the information on the status and prospects of the development of currency market on a regular basis;

9) establishing the integrated currency market of the member States;

10) ensuring by each member State of admission to its domestic monetary market of banks, which shall be the residents of the member States and have the right to conduct monetary transactions for interbank conversion operations under the conditions for granting national regime in accordance with the legislation of this member State;

11) providing banks of the member States with the right for free conversion of funds owned by them in national currencies of the member States, within their correspondent accounts, into the third-country currencies;

12) creating conditions for the allocation of foreign exchange holdings of the member States in national currencies of the other member States including their public securities;

13) further developing and enhancing the liquidity of the domestic currency markets;

14) developing bidding process by the national currencies on the organized markets of the member States and ensuring an access of the participants of the monetary market of the member States to it;

15) developing the organized financial derivatives market.

4. In order to approximate the legislation of the member States regulating the currency relations and take measures of liberalization the member States shall:

1) provide a gradual elimination of monetary restrictions impeding the effective economic cooperation with respect to the monetary transactions and opening or maintaining accounts by the residents of the member States in banks located on the territories of the member States;

2) determine the agreed approaches to the procedure of opening or maintaining accounts of the residents of the Third Countries in banks located on the territories of the member States, as well as accounts of the member States' residents in banks located on the territories of the Third Countries;

3) adhere to the principle of preservation of national sovereignty with respect to the elaboration of approaches to the requirement for repatriation of funds of the member States' residents, which shall be subject to mandatory transfer to their bank accounts;

4) determine a list of monetary transactions carried out between the residents of the member States with respect to which the monetary restrictions shall not be applied;

5) determine the required scope of rights and responsibilities of the member States' residents when conducting monetary transactions, including the right for payments settlement without using bank accounts in banks located in the territory of the member States;

6) ensure the harmonization of requirements for the repatriation of funds of the member States' residents, which shall be subject to mandatory enrollment into their bank accounts;

7) ensure free movement of cash funds and monetary instruments by the residents and non-residents of the member States within the customs territory of the EAEU;

8) ensure the harmonization of the requirements for accounting and control of monetary transactions;

9) provide the harmonization of rules on liability for the breach of monetary legislation of the member States.

### III. Cooperation of the Competent Authorities of Currency Control

5. Cooperation of the competent authorities of currency control shall be carried out by means of:

1) exchange of information on:

practice of the regulatory and law enforcement authorities of the member States in the field of monitoring of compliance with the monetary legislation;

measures for improving and functioning of monitoring system of compliance with monetary legislation;

issues of the organization of currency control as well as legal information including the legislation of the member States in the field of currency control and changes in the legislation of the member States in the field of currency control;

2) cooperation on the prevention, detection and restraint of the violation of the legislation of the member States by the residents of the member States when conducting the monetary transactions by them, including the exchange of information and including based on the requests of the competent currency regulation authorities and operations conducted with the violation of the monetary legislation;

3) conducting joint analytical studies on the issues affecting the mutual interests of the member States in the field of foreign exchange regulation and control;

4) providing the practical assistance on the issues arising in the process of the cooperation including the establishment of working groups, exchange of experience and staff training;

5) exchange of the statistical information on the issues of foreign exchange regulation and control including the information on:

amounts of payments and transfers of funds on monetary transactions between the residents of the member States;

number of accounts opened by the residents of one member State in the authorized organizations of another member State;

6) implementation of joint actions on the other issues of cooperation of the competent currency regulation authorities.



6. The competent authorities of currency control shall cooperate in the specific areas of currency control including the provision of information on an ongoing basis in accordance with individual protocols of cooperation between the competent authorities of currency control.

7. Practical assistance is carried out by:

organization of working visits of representatives of the competent authorities of the currency control;

conduct of seminars and consultations;

development of methodological recommendations, as well the exchange of them.

#### IV. Exchange of information upon request of the competent authorities currency control

8. Submission and fulfillment of request for the information shall be made in the following order:

1) a request shall be submitted in writing or through the use of technical facilities of the text transmission.

The requested competent currency regulation authority shall request the confirmation in writing when using the technical facilities of the text transmission as well as in case of any doubt with respect to the authenticity or content of the request received;

2) a request for the information as part of Legal proceedings on administrative violations shall include:

name of the requested competent authority of currency control;

brief summary of facts of case enclosing copies of confirming documents if required;

subsumption of offense in accordance with the legislation of the state of the requested competent authority of currency control;

other information needed for fulfillment of the request;

3) a request and response to it shall be made in Russian.

8. A written consent of the competent authority of currency control, which provided this information, shall be required in case of the necessity of communication of the information to the third party obtained under this Protocol.

10. A request shall be fulfilled taking into account the possibility of compliance with the procedural time limits by the requested competent authority of currency control established by the legislation of the State of the requested competent authority of currency control.

The requested competent authority of currency control shall have the right to request the additional information on a point of clarification if it is required for fulfilling the request.

11. In the event of impossibility of fulfilling the request the requested competent authority of currency control shall notify the requested competent authority of currency control of it specifying the grounds.

12. The competent authorities of currency control shall bear the costs for the exchange of information as part of the cooperation in the field of currency control.

In the case of receiving the requests that require the additional costs, the issue on its funding shall be considered by the competent authorities of currency control by mutual agreement.

## V. Monetary Restrictions

13. Each of the member States (in the event that the situation cannot be resolved by other measures of economical policy) shall have the right to impose the monetary restrictions for the period of not more than 1 year in exceptional cases.

Thus, exceptional cases shall include:

occurrence of the circumstances under which the implementation of liberalization measures may lead to the deterioration of the economic and financial situation in a member State;

negative development in the balance of payments, which may result in a decrease in gold reserves of a member State below acceptable level;

occurrence of the circumstances under which the implementation of liberalization measures may be harmful for security interests of a member State and impede maintaining of the public order;

sharp fluctuations in national currency of a member State.

14. A member State, which has introduced the monetary restrictions, shall notify the other member States and the Commission not later than 15 days from the date of the introduction of such restrictions.

ANNEX 16  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Trade in Services, Establishment, Activities and Investments

I. General Provisions

1. This Protocol is developed in accordance with Articles 65-69 of the Treaty on the Eurasian Economic Union (hereinafter referred to as – the Treaty) and defines the legal basis for regulation of trade in services, establishment, activities and investments in the territory of the member States.

2. Provisions of this Protocol shall apply to any measure of the member States, affecting services supply and consumption of services, establishment, activities and investments.

The specificities of legal relations, arising in connection with the trade in electric communications services are determined according to Annex № 1 to this Protocol.

«Horizontal» restrictions, reserved by the member States in relation to all sectors and types of activity are determined according to Annex № 2 to this Protocol.

Individual national lists of reservations, exceptions, additional requirements and conditions (hereinafter referred to as – national lists), provided for by the paragraphs 15 - 17, 23, 26, 28, 31, 33 and 35 of this Protocol shall be adopted by the Supreme Council.

3. Provisions of this Protocol shall apply to established, acquired and controlled juridical persons of the member States, created branches, representative offices, registered sole proprietors, continuing to exist at the date of entry into force of this Treaty, as well as to established, acquired, controlled juridical persons of the member States, created branches, representative offices, registered sole proprietors after the entry into force of the Treaty.

Without prejudice to provisions of the paragraphs 15 - 17, 21, 24, 27, 30 and 32 of this Protocol, the member States preserve the right to adopt and apply any measures in relation to the new services, i.e. nonexistent at the date of the entry into force of this Treaty.

In the case of adoption or application of a measure affecting new service ant that is inconsistent with the provisions of the given paragraphs, the member State shall inform other member States and the Commission of such measure not later than 1 month from the date of its adoption or application, whichever is earlier. Respective changes in the national list of this member State shall be adopted by the resolution of the Supreme Council.

4. In relation to modes of supply of services referred to in the second and third letters of subparagraph 22 of paragraph 6 of this Protocol, the provisions of this Protocol shall not apply to the rights of air transportation and services, directly related to rights of transportation, except for repair and maintenance of aircrafts, supply and marketing of air transport services and computer reservation system services.

5. The member States shall not use the reduction of requirements provided for in their legislation and relating to the protection of life and health of human , environment, national security, as well as labor standards, as a mechanism to attract persons of other member States, as well as those of third States for the establishment in the territories of the member States.

## II. Definitions and Terms

I. Definitions used in this Protocol signify the following:

1) "State - recipient" - a member State in the territory of which the investments are made by investors of other member States;

2) "activities" – business or other activities (including trade in services and production of goods) of juridical persons, affiliates, representative offices or sole proprietors listed in letters 2-6 of the subparagraph 24 of this paragraph;

3) "activities in connection with investments" -ownership, use and (or) disposal of investments;

4) " returns" - the amounts yielded from investments , in particular, dividends, interest, as well as license, commission and other remunerations ;

5) «legislation of a member State » - legislation and other normative legal acts of the member State;

6) «applicant » - a person of one member State, applied to the competent authority of this or other member State concerning the granting of permission ;

7) “investments" - tangible and intangible assets, invested by the investor of one member State in objects of business activities in the territory of another member State in accordance with the legislation of the latter, including:

cash monetary assets (money), securities, other property;

right to carry out business activity, conferred by the legislation of the member States or under contract, including, in particular, rights to explore, develop, extract and exploit the natural resources;

property and other rights, having monetary value;

8) «investor of a member State" - any person of a member State, that is making investments in the territory of another member State in accordance with the legislation of the latter;

9) “competent body" - any body or any organization, within its powers , delegated to it by the member State, carrying out controlling, permitting or other regulatory function regarding the issues covered by this Protocol, in particular, administrative authorities, courts, professional unions , associations ;

10) “ person of a member State" - any natural or juridical person of a member State;

11) «measure of a member State» - legislation of a member State, as well as any resolution, action or inaction of a body or an official of this member State, that are adopted or applied at any level of government authority, by local authorities or organizations in the exercise of competences, delegated to them by such authorities.

In the case of adoption (issuing) of the official document by an authority of a member State, having recommendational nature, this recommendation may be considered as a measure of a member State, applied for the purposes of this Protocol if it is proven that in practice the major part of this recommendation recipients (public, regional and (or)

municipal authorities, non-governmental bodies, as well as persons of this member State, persons of other member States, and persons of any third country) follow it;

12) “service consumer” - any person of a member State, whom a service is provided to or who intends to use a service;

13) “service supplier” - any person of a member State, that supplies a service;

14) “representative office”- a separate division of a juridical person, situated outside the place of its location, which represents and protects the interests of the juridical person.

15) “permission” –provided for by the legislation of a member State, based on the request of the applicant, confirmation,of a competent body in order to ensure the right of this person to carry out certain activities or certain actions, including those ones by means of including into the register, issuing of the official document (license, approval, decision, testimonial, certificate etc.). At the same time, permission may be issued according to the results of competitive selection;

16) “permitting procedures” – the set of procedures, carried out by the competent bodies in accordance with the legislation of a member State, related to the issuing and reissuing of permissions and its copies, abatement, suspension and revival or prolongation of the term, abrogation (annulment) of permissions, refusal of a permission, as well as processing of complaints on such issues;

17) “permitting requirements” – the set of standards and (or) requirements (including licensed, qualified ones) for an applicant, permission owner and (or) supplied service, implemented activities, appropriate for the legislation of a member State, aimed at achieving of regulatory purposes, established by the legislation of a member State.

Regarding permissions for carrying out of activities permitting requirements may also be aimed at providing of competence and ability of an applicant to conduct trade in services and other activities in accordance with the legislation of a member State;

18) "treatment" - set of measures of the member States;

19) “service sector”:

regarding Annex 2 to this Protocol, as well as regarding the lists, asserted by the Supreme Council, - one, several or all subsectors of a separate service;

in other cases - a whole service sector, including all its subsectors;

20) "territory of a member State" - the territory of a member State, as well as its exclusive economic zone and continental shelf, in respect of which it exercises sovereign rights and jurisdiction in accordance with international law and domestic legislation ;

21) " economic needs test" – conditioning of issuing of the relevant permissions by means of proof of presence of economic necessity and market demands, value of potential or existing economic influence of activities or value of correspondence of activities to the purposes of economic planning, established by the competent body. This concept does not cover the conditions, which are related to the planning of non-economic nature and which are not substantiated by the reasons of social interest, such as social policy, realization of programs of social and economic development, asserted by the local authorities within their competence, or urban habitat protection, including realization of architectural plans;

22) "trade in services" - supply of services, including production, distribution, marketing, sale and delivery of services, and carried out by the following means:

a) from the territory of one member State into the territory of another member State;

b) in the territory of one member State by a person of that member State to the service consumer of another member State;

c) by service supplier of one member State through establishment in the territory of another member State;

d) by service supplier of one member State by means of presence of natural persons of this member State in the territory of another member State;

23) « third State » - a State which is not a member State ;

24) «establishment»:

constitution and (or) acquisition of a juridical person (participation in the capital of a constituted or established juridical person) of any legal form and ownership provided for by legislation of the member State in the territory of which this juridical person is constituted or established;

acquisition of control over a juridical person of a member State, by legally determining, directly or indirectly the decisions taken by such juridical person, including through voting shares ( stoks), participating in the board of directors (supervisory board) and other managing bodies of such juridical persons;



- creation of a branch ;
- creation of a representative office;
- registration as a sole proprietor ;

Establishment is carried out also for the purposes of trade in services and (or) goods production;

25) “ natural person of a member State” - a citizen of a member State in accordance with its legislation;

26) « branch» - a separate subdivision of a juridical person, situated outside of the place of its location and carrying out all its functions or a part of them, including functions of a representative office;

27) juridical person of a member State" – an entity of any legal form, created or established in the territory of a member State in accordance with the legislation of this member State;

7. For the purposes of this Protocol, the service sectors are determined and classified on the basis of the International Classification for staple goods, asserted by The Statistical Commission of the Secretariat of the United Nations (Central Products Classification).

### III. Payments and Transfers

8. Except as provided for in paragraphs 11- 14 of this Protocol , each member State eliminates existing and does not introduce new restrictions on transfers and payments in connection with trade in services, establishment, activities, and investments, and in particular regarding to:

- 1) returns;
- 2) funds in repayment of loans and credits recognized by member States as investments;
- 3) funds received by the investor in connection with the partial or complete liquidation of a commercial organization, or sale of investments;
- 4) funds received by the investor as a compensation for losses under the article 77 of this Protocol and the compensation provided for in paragraphs 79-81 of this Protocol;

5) wages and other remunerations received by investors and citizens of other member States who have the right to work in connection with investments in the territory of the State-recipient.

9. Nothing in this Article shall affect the rights and obligations of any member State resulting from its membership in the International Monetary Fund, including the rights and obligations relating to the control measures of currency transactions, provided that such measures of a member State correspond to the articles of the Agreement of the International Monetary Fund on July 22, 1944, and (or) and , provided that the member State does not set limits on transfers and payments, inconsistent with its obligations under this Protocol, regarding such transactions, except cases specified in paragraphs 11-14 of this Protocol, or cases of restrictions on request demand of the International Monetary Fund.

10. Transfers specified in the paragraph 8 of this Protocol, can be executed in any freely convertible currency. Conversion of funds is carried out without undue delay at the exchange rate applicable in the territory of the member State on the date of transfer of funds and making payments.

#### IV. Restrictions on Payments and Transfers

11. In cases of deteriorating balance of payments, a significant reduction of gold reserves, sharp fluctuations of the national currency, or threat thereof, the member State may impose restrictions regarding transfers and payments referred to in paragraph 8 of this Protocol.

12. Limitations specified in paragraph 11 of this Protocol:

- 1) shall not create discrimination between the member States;
- 2) shall comply with the Articles of the Agreement of the International Monetary Fund on July 22, 1944;
- 3) shall not cause excessive damage to the commercial, economic and financial interests of any other member State;
- 4) shall not be more burdensome than necessary to overcome the circumstances

specified in paragraph 11 of this Protocol;

5) shall be temporary and be phased out as the circumstances referred to in paragraph 11 of this Protocol are being eliminated.

13. In determining the scope of the restrictions specified in paragraph 11 of this Protocol, the member States may give priority to the supply of goods or services which are more essential to their economic or development programs. However, such restrictions shall not be and are not preserved to protect certain sectors of the economy.

14. Any restrictions adopted or maintained by member States in accordance with paragraph 11 of this Protocol, or any changes thereof are subject to immediate notification to the other member State.

## V. State Participation

15. Each member State shall provide in its territory for participation of persons of another member State in the privatization a treatment, which is no less favorable than that accorded to persons of its member State, including restrictions, exemptions, additional requirements and conditions specified in national lists or in the application number 2 to this Protocol.

16. If there are juridical persons in the territory of a member State, in whose capital the member State is involved or which are controlled by them, then such a member State shall ensure that the above mentioned entities:

1) carry out their activities on the basis of commercial considerations and participated in relations regulated by this Protocol:

based on the principle of equality with other participants of these relations;

based on the principle of non-discrimination of other participants of these relations according to their nationality, place of incorporation (institutions), organizational form or forms of ownership;

2) did not get the rights, privileges or responsibilities solely by virtue of the participation of member States in their capital or control of that member State over them.

These requirements do not apply when the activities of such legal persons is aimed at solving problems of social policy of a member State, as well as limitations and conditions specified in national schedules and (or) in the Annex 2 to this Protocol.

17. The provisions of paragraph 16 of this Protocol shall apply to juridical persons having formal or de facto exclusive rights or special privileges, except for juridical persons with rights and (or) the privileges included under subparagraphs 2 and 6 of paragraph 30 of this Protocol in national lists or in Appendix 2 of this Protocol, and juridical persons, the regulation of which is carried out in accordance section XIX of the Treaty.

18. Each member State shall ensure that all authorities of that member State at any level of government or the local authorities are independent, not controlled and accountable to any person engaged in economic activity in the sector, the regulation of which falls within the purview of the relevant body, without prejudice to the provisions of Article 69 of the Treaty.

Measures of the member State, including the decision of the authority, its established and applied rules and procedures, shall be impartial and objective in the relation to all entities engaged in economic activities.

19. In accordance with the obligations arising from the Section XIX of the Treaty, and, notwithstanding the provisions of paragraph 30 of this Protocol, each member State may retain in its territory entities, which are natural monopolies. member State, which preserves such juridical persons in its territory, shall ensure that juridical persons act in a manner consistent with the obligations of that member State arising from the Section XIX of the Treaty.

20. If the juridical persons of a member State, indicated in the paragraph 19 of this Protocol, compete directly or through juridical persons controlled by them outside the scope of their monopoly rights with juridical persons of other member States, the first member State shall ensure that such juridical person does not abuse its monopoly position to act in the territory of the first member State in a manner inconsistent with the obligations of the first member State arising from this Protocol.

## VI. Trade in Services, the Establishment and Activities

1. National treatment for trade in services, the establishment and activities

21. Each member State in respect of all measures affecting trade in services, provides to services, service suppliers and service consumers of another member State treatment no less favorable than that accorded under like (similar) circumstances to its own like (similar) services, service suppliers and service consumers .

22. Each member State may meet the requirement referred to in paragraph 21 of this Protocol, by providing to services, service suppliers and service consumers of any other member State formally identical or formally different treatment to that provided by the member State to its own identical (similar) services or service suppliers and service consumers.

Formally identical or formally different treatment shall be considered to be less favorable if it modifies the conditions of competition in favor of services, service suppliers and service consumers of that member State in comparison with like (similar) services, service suppliers and (or) service consumers of any other member State.

23. Notwithstanding the provisions of paragraph 21 of this Protocol, each member State in respect of services, service suppliers and service consumers of another member State may apply certain limitations and conditions specified in national lists or in the Annex2 to this Protocol.

24. Each member State shall accord to persons of any member State in relation to the establishment and activities treatment no less favorable than that accorded under like (similar) circumstances to its own persons in its territory.

25. Each member State meet the requirement specified in paragraph 24 of this Protocol by granting to the persons of any other member State formally identical or formally different treatment to that provided by that member State to its own persons. Such treatment is considered to be less favorable if it modifies the conditions of competition in favor of persons of that member State in comparison to those of any other member State.

26. Notwithstanding the provisions of paragraph 24 of this Protocol, each member State in respect of establishment and activities of persons of any member State may apply

certain limitations and conditions specified in national lists or in the Annex 2 to this Protocol.

## 2. Most favored nation treatment in trade in services, establishment and activities

27. Each member State shall provide, under like (similar) circumstances, in respect of services, service suppliers and service consumers of any other member State, a treatment no less favorable than that accorded to like (similar) services and service suppliers and service consumers of third States. .

28. Notwithstanding the provisions of paragraph 27 of this Protocol, each member State in respect of services, service suppliers and service consumers of any other member State may apply individual exemptions listed in a national list or in the Appendix 2 to this Protocol.

29. Each member State shall provide, under like (similar) circumstances. to persons of any other member State as well as to persons established by them in relation to establishment and activities in its territory a treatment no less favorable than the treatment provided to the persons of third States as well as to persons established by them.

## 3. Quantitative and investment measures

30. Member States shall not introduce or apply in relation to entities of any member State in relation to trade in services, establishment and activities any restriction on:

1) the number of service suppliers in the form of a quota economic needs test, or any other form of quantification;

2) the number of established, created, acquired and (or) controlled juridical persons, branches and representative offices, registered individual entrepreneurs;

3) operations of any service provider in the form of a quota economic needs test, or any other form of quantification;

4) operations of established, created, acquired or controlled juridical person, branch, representative office, registered individual entrepreneur in the implementation of their activities in the form of quotas, economic needs test or any other quantitative form;

5) forms of institutions, including the legal form of a juridical person;

6) the volume of purchased share in the authorized capital of the entity or the degree of control over the entity;

7) limits to the total number of individuals, which may be employed in a particular service sector or the number of individuals, which the service provider may employ and which are necessary and directly relevant to the delivery of certain services in the form of numerical quotas or economic needs test.

member State in respect of services, providers and beneficiaries of any other member State may impose and enforce restrictions specified in paragraph 30 of this Protocol, if such restrictions exist in national lists or in the Annex 2 to this Protocol.

32. None of the member States shall introduce or apply against persons of the member States as well as to persons established by them as conditions in connection with the establishment and (or) activity, the following additional requirements:

- 1) to export all produced goods or services or a part of them;
- 2) to import goods or services;
- 3) to purchase or use of products or services, whose State of origin is a member State;
- 4) requirements that restrict the sale of goods or supply of services in the territory of that member State, the import of goods into the territory of that member State or export of goods from the territory of that member State, and linked to the volume of goods produced (service supplied), the use of local goods and services, or restrict access of enterprise to foreign exchange, applicable in connection with these transactions indicated in this subparagraph;

- 5) transfer of technology, know-how and other information having commercial value, except their transfer pursuant to a court award or decision of a body authorized in the field of protection of competition, while respecting the rules of the competition policy established by other international treaties of the member States.

33. Each member State may establish and implement in respect of the individuals and entities of other member States the additional requirements set forth in paragraph 32 of this Protocol, if such restrictions exist in national list or in the Appendix 2 to this Protocol.

34. Compliance with the requirements specified in paragraph 32 of this Protocol shall not be considered as ground for obtaining any preferences by the entities of any member State in connection with the establishment or activity.

#### 4. Movement of natural persons

35 Except for the restrictions and requirements specified in a national list or in the Appendix 2 to this Protocol, subject to the provisions of section XXVI of the Treaty, each member State shall not apply and shall not impose in its territory the restrictions associated with hiring employees for the activities of established, created, acquired or controlled juridical person, branch, representative office, the registered individual entrepreneur.

36. The provisions of paragraph 35 of this Protocol shall not apply in relation to the requirements for education, experience, qualifications, merit of employees, if their use does not lead to actual discrimination against employees depending on nationality.

37. Subject to the provisions of section XXVI of the Treaty, each member State shall not apply and shall not impose restrictions on individuals involved in trade in services in the manner specified in the fifth paragraph of subparagraph 22 of paragraph 6 of this Protocol, and present in the territory of that member State.

#### 5. Creation of a single services market

38. For the purposes of this section, a single service market refers to a status of a service market within the specific sector, in which each member State provides to the entities and individuals of any other member State the right to:

1) the delivery and receipt of services under the conditions specified in paragraphs 21, 24, 27, 29, 30 and 32 of this Protocol, without restrictions, exceptions and additional requirements, except the conditions and restrictions provided in application number Appendix 2 to this Protocol;

2) supply of services without additional establishment in the form of a juridical person;

3) supply of services by branch or representative office under the authority of the supply of services received by the service provider in the territory of its member State;

4) recognition of professional qualifications of the staff of the service provider.

39. Rules of a single services market apply for member States on the basis of reciprocity.



40. Single market for services within the EAEU operates in sectors defined by the Supreme Council on the basis of correlated proposals of member States and the Commission.

41. Member States on a reciprocal basis, seek to apply the rules of the single market for services to the maximum number of sectors, including by gradual decrease of exceptions and limitations prescribed by national lists.

42. Procedure and stages of the creation of single market for services by specific sectors are envisaged by the liberalization plans that are developed on the basis of the agreed proposals from member States and the Commission (hereinafter - the liberalization plans) and approved by the Supreme Council.

43. Liberalization plans may provide for individual member States later dates of liberalization of specific services sectors that do not cause an obstacle to other member States to establish a single market in such services sectors on the basis of reciprocity.

44. In sectors where rules of a single market for services does not apply, the provisions of subsections 1 - 4 of this section are applied.

6. Relations with third States in regard of trade in services, establishments, activities and investments

45. Nothing in this Protocol shall preclude the member States to enter into international agreements with third States on economic integration to meet the requirements of paragraph 46 of this Protocol.

Each member State, which has entered into an international agreement on economic integration, provides under like (similar) conditions to member States concessions which are granted within the framework of an international agreement on economic integration.

The concessions in this paragraph refer to the abolition of the member State of one or more restrictions under its national list.

46. For the purposes of this Protocol, the international agreements on economic integration between member State and a third State shall be recognized as the international agreements that meet the following criteria:

1) cover a significant number of services sectors, as well as certainly not exclude under any circumstances a priori none of the modes of services supply, matters related to establishment and activities;

2) aimed at the elimination of existing discriminatory measures and to prohibit the introduction of new ones;

3) aimed at the liberalization of trade in services, establishment and activities.

The purpose of such agreements is to facilitate international trade in services and establishment of conditions and activities among its participants. Such an agreement should not lead against any third state to increase the overall level of barriers to trade in services in certain sectors or subsectors compared to the level that was used prior to the conclusion of such an agreement.

47. Member State which has entered into international agreement with a third party on economic integration, is obliged to inform about its conclusion other member States in a period of 1 month from the date of its signing.

48. Member States to determine their own foreign trade policies with respect to trade in services, establishment, activities and investments with third States.

#### 7. Additional rights of the service consumer

49. Taking into account the provisions of article XV of the Treaty, each member State shall not establish requirements regarding the service consumer or special conditions limiting the right to acquire, use or payment for services supplied by a service supplier of another member State, including the selection of a service supplier or a duty to obtain permissions from the competent authorities.

50. Taking into account provisions of article XV of the Treaty, each member State shall ensure the non-use in relation to the service consumer of discriminatory requirements or special conditions according to their nationality, place of residence or place of establishment or activity.

51. Each member State requires:

1) service suppliers to provide to the service consumers necessary information in accordance with this Treaty and the legislation of the member State;

2) the competent authorities to take measures to protect the rights and legitimate interests of service consumers.

52. Nothing in this Protocol shall affect the right of member State to take any measures necessary for the implementation of its social policies including pension and social support of citizens.

Issues of consumers access to services covered by sections XIX XX and XXI of the Treaty, and the treatment provided to consumers of such services shall be regulated by the provisions of such sections respectively.

## 8. Mutual recognition of permits and professional qualifications

53. Recognition of the permits for the supply of services in sectors for which plans of liberalization are implemented, is provided after the adoption of measures specified in paragraphs 54 and (or) 55 of this Protocol.

54. On the basis of mutual consultation (including interdepartmental character), member States may decide on the mutual recognition of authorizations for service delivery in specific sectors due to the achievement in these sectors of a substantial equivalence of regulation.

55. Liberalization plans provide:

1) gradual convergence tolerance mechanisms for the implementation of activities (including licensing requirements and procedures) through harmonization of legislation of member States with the establishment of a terms for the completion of harmonization of specific services sectors;

2) the establishment of mechanisms of administrative cooperation in accordance with Article 68 of the Treaty;

3) recognition of professional qualifications of employees of service providers.

56. If the admission to the implementation of professional services requires professional examinations, each member State shall ensure non-discriminatory procedure for taking such a professional examination.

## 9. Domestic regulation of trade in services and the establishment and (or) activity

57. Each member State shall ensure that all measures of that member State, affecting onto the trade in services, the establishment and activities, are implemented in a reasonable, objective and impartial manner.

58. Each member State retains or creates as soon as practicable, judicial, arbitral or administrative bodies or procedures that on the request of other member States, whose interests are affected, provide the prompt review and reasonable measures in order to change the administrative decisions affecting on trade in services, establishment and activities. In cases where such procedures are not independent of the agency entrusted with the administrative decision, the member State shall ensure that the procedures in fact were provided for an objective and impartial review.

59. The provisions of paragraph 58 of this Protocol shall not be construed to require the member State to create bodies or procedures referred to in paragraph 58 of this Protocol, when it is inconsistent with its constitutional structure or the nature of its legal system.

60. If you need permission to trade in services, establishment and (or) activities, the competent authorities of the member State within a reasonable period of time after the submission of the application, which is considered as completed in accordance with the legislation of the member State rules and regulations, inform the applicant of reviewing the application and making the decision taken in the result of the review.

This application is not considered properly executed until all documents and (or) information are received in accordance with the legislation of the member State.

In any case, the applicant should be given the opportunity to make technical corrections into the application.

Upon request of the applicant, the competent authorities of the member State provide information on progress of the application, without undue delay.

61. To ensure that licensing requirements and procedures do not constitute unnecessary barriers to trade in services, the establishment and activities, the Commission in agreement with member States develops rules approved by the Supreme Council. These rules are intended to ensure that such licensing requirements and procedures, among other things:

1) are based on objective and transparent criteria, such as competence and the ability to trade in services and activities;

2) are not more burdensome than necessary to ensure the safety of ongoing activities, as well as safety and quality of services delivered;

3) are not a restriction on trade in services, establishment and (or) activity.

62. Member States shall not apply licensing requirements that nullify or impair the benefits and procedures which:

1) does not meet the criteria in paragraph 61 of this Protocol;

2) have not been established by the legislation of a member State and are not applied by the member State on the date of signing the Treaty.

63. When defining the fulfillment of a member State of the obligations specified in paragraph 62 of this Protocol, international standards of international organizations whose membership is open to all member States shall be taken into account.

64. If a member State applies permitting requirements and procedures in relation to trade in services, establishment and (or) activity, the member State shall ensure that:

1) the names of the competent authorities responsible for issuing permissions, have been published or otherwise notified to the general information;

2) all the licensing requirements and procedures have been established in the legislation of a member State, and any act to establish or adopt licensing procedures and requirements was published before the date of its entry into force;

3) the competent authorities have taken a decision to issue or refuse to issue a permit within a reasonable period specified in the legislation of a member State, as a rule, not later than 30 working days from the date of receipt of application for a permit that is deemed drawn up in accordance with the legislation of the member State. Such term is defined based on the minimum time required to receive and process all documents and (or) information required to implement licensing procedures;

4) any fees charged in connection with the submission and examination of applications, with the exception of charges for the right to work were not in themselves a restriction on the trade in services, institutions, activities and are based on

the cost of the competent authority with regard to the consideration of applications and the issuance of the authorization;;

5) at the end of the period referred to in subparagraph 3 of this paragraph, and the at the request of the applicant the competent authority of a member State in accordance with paragraph 60 of this Protocol, had informed the applicant on the status of its application, and whether this application is considered properly executed.

In any case, the applicant should be granted the rights provided in paragraphs 57, 58, 60, 62 and 64 of this Protocol;

6) at the written request of the applicant, who had been refused to the admission of application, the authority which refused to accept the application, informed the applicant in writing on the reasons for such refusal. In this case such provision should not be construed as a requirement of the competent authority to disclose information whose disclosure would prevent law enforcement, or otherwise be contrary to the public interest or essential security interests of the member State;

7) If it was refused to accept the application, the applicant could submit a new application, unless the competent authority has been refused admission of such an application because of its improper execution;

8) Permits issued for the supply of services operated throughout specified the territory of a member State specified in such permit.

## VII. Investments

### 1. General provisions

65. The provisions of this section shall apply to all investments made by investors of the member States in the territory of another member State since December 16, 1991.

66. One form of the investments is the establishment within the meaning of subparagraph 24 of paragraph 2 of this Protocol. This Protocol shall be applied in respect of such investments except for paragraphs 69 - 74 of this Protocol. 67. The change of means of investments, as well as of forms of investments or reinvestments shall not affect

their qualification as investments if such change is not in contradiction with the legislation of the State-recipient

## 2. Treatment of investments and investments protection

68. Each member State shall ensure in its territory fair and equitable treatment to the investments and activities related to the investments made by investors of other member States.

69. Treatment referred to in paragraph 68 of this Protocol shall not be less favorable than that granted by that member State in respect of investments and activities related to such investments to its own (national) investors.

70. Each member State shall provide under like (similar) circumstances to investors of any other member State, their investments and activities related such investments a treatment no less favorable than that accorded to investors of any third State, its investments and activities related to such investments.

71. Treatments provided in paragraphs 69 and 70 of this Protocol shall be provided by the member States by the choice of investor, whichever is more favourable.

72. Each member State shall create favorable conditions for investments in its territory by investors of other member States and admit such investments in accordance with its legislation.

73. Each member State in accordance with its legislation reserves the right to restrict the activities of investors of other member States, as well as to apply and introduce other exemptions from the national treatment set forth in paragraph 69 of this Protocol.

74. The provisions of paragraph 70 of this Protocol shall not be interpreted as requiring a member State to extend to investments and activities associated to such investments of investors of other member States the benefits of any treatment, preferences or privileges granted or which may be granted in the future to that member State on the basis of international agreements on avoidance of double taxation or other agreements on taxation, as well as the agreements referred to in paragraphs 46 of this Protocol.

75. Each state-recipient shall guarantee to investors of other member States after the fulfillment of all tax and other obligations provided by the legislation of the state-recipient:

1) a right to use and dispose the income that was obtained as a result of investment for any purpose not prohibited by the legislation of the state-recipient;

a right to use and dispose the income that was obtained as a result of investment for any purpose not prohibited by the legislation of the state-recipient;23) a right to pursue freely in any state at the discretion of the investor transfers of funds (money) and payments related to investments referred to in paragraph 8 of this Protocol.

76. Each member State ensures and provides, in accordance with its legislation, a protection of investments on its territory for investors of other member States.

### 3. Compensation for losses and guarantees of investors

77. Investors have the right for the compensation for losses to their investments as a result of civil unrest, hostilities, revolution, rebellion, a state of emergency or other similar circumstances in the territory of a member State.

d a treatment no less favorable than that which the state-recipient provides to its national investors or to investors of a third state in respect of measures taken by the member State in connection with the reimbursement of such damages, depending on which mode is most favorable for the investor.

### 4. Guarantees provided to investors in case of expropriation

79. Investments of investors of one member State made in the territory of another member State, can not be subjected to direct or indirect expropriation, nationalization and other measures tantamount to expropriation or nationalization (hereinafter - the expropriation), except when such measures are taken in the public interest in accordance with legislation of the state-recipient procedure, they are not discriminatory and are accompanied by the payment of prompt, adequate compensation.

80. The compensation referred to in paragraph 79 of this Protocol, shall correspond to the market value of the expropriated investment of investors on the date immediately preceding to the date of their actual expropriation or the date when it became common known about the impending expropriation.

81. The compensation referred to in paragraph 79 of this Protocol, shall be paid without delay within the period stipulated by the legislation of the state-recipient, but not



later than 3 months from the date of expropriation and shall be free transferred abroad from the territory of the state-recipient in a freely convertible currency.

In case of delay in payment of compensation from the date of expropriation until the date of actual payment of compensation the interests shall be accrued and shall be calculated to the amount of compensation at the rate of the national interbank market to the provided disbursements in U.S. dollar up to 6 months, but not less than the rate of LIBOR, or in the manner determined by the agreement between the investor and the member State.

82. Member State or its authorized body who made the payment to the investor on the basis of their state guarantees against non-commercial risks in connection with investments of such an investor in the territory of the state-recipient, will be able to implement subrogation of rights of the investor to the same extent that the investor.

83. The rights referred to in paragraph 82 of this Protocol shall be implemented in accordance with the legislation of the state-recipient, but without prejudice to the provisions of paragraphs 21, 24, 27, 29, 30 and 32 of this Protocol.

#### 6. Procedure for Settlement of Investment Disputes

84. Disputes between the state-recipient and the investor of another member State, arising in connection with this investments of the investor in the territory of the state-recipient, including disputes regarding the size, condition, or the procedure for payment of amounts received as compensation for damages in accordance with paragraph 77 of this Protocol, and the compensation provided in paragraphs 79 - 81 of this Protocol, or the order of payments and transfer of funds provided in paragraph 8 of this Protocol shall be resolved as far as possible through negotiations.

85. If the dispute cannot be settled through negotiation within 6 months from the date of written notice by either party to the dispute about the negotiations, it may be sent by the investor's choice for consideration to:

- 1) court of the state-recipient, which is competent in relevant disputes;
- 2) international Commercial Arbitration at the Chamber of Commerce of any state, which the participants agreed to the dispute;

3) the arbitral court ad hoc, that if parties of the dispute agree otherwise, should be created and operate according to the Arbitration Regulations of the United Nations Commission on International Trade Law (UNCITRAL);

4) International Centre for Settlement of Investment Disputes, established in accordance with the Convention on the Settlement of Investment Disputes between States and individuals or juridical persons of other States dated 18 March 1965, to settle the dispute in accordance with the provisions of this Convention (provided that it has entered into force for both member States parties of the dispute), or in accordance with the Additional Facility Rules of the International Centre for Settlement of Investment Disputes (if the Convention has not entered into force for one or both of the member States parties of the dispute).

86. An investor has to submit the dispute for settlement in a national court or one of the arbitration courts referred to in paragraphs 1 and 2 of Article 85 of this Protocol, and shall not be entitled to redirect their dispute to any other court or arbitration.

Investor's choice with respect to the court or arbitration referred to in paragraph 85 of this Protocol, shall be final.

87. Any arbitration decision on the dispute considered in accordance with paragraph 85 of the this Protocol shall be final and binding on the parties of the dispute. Each member State undertakes to enforce the implementation of such decision in accordance with its legislation.

## APPENDIX 1

### to the Protocol on Trade in Services, the Establishment, Activities and Effectuation of Investments

#### Order of Electric Communication Services Trade

1. This Order applies to measures of member States regulating the implementation of activities in the field of electric communications.

2. This Order does not apply to activities in the field of postal services.

3. Nothing in this Order shall be construed as requiring any of the member States (or requiring member States to oblige service providers under its jurisdiction) to establish special requirements for telecommunication networks having no connection to public telecommunication network.

4. Definitions used in this Order have the following meanings:

"Public electric communication network" - the technological system, which includes facilities and communication lines designed to onerous provision of telecommunication services to any user of telecommunication services in the territory of a member State in accordance with the legislation of the member State;

"Universal telecommunication services" - a list of telecommunication services established by the member State, the provision of which to any user of telecommunication services in any locality with established quality and price level ensuring the availability of these services is obligatory for universal service operators;

"Telecommunication services" - activities related to receiving, processing, storage, transmission and supply of electronic messages.

5. Each member State shall ensure that the information on for the terms of access to public telecommunication networks and telecommunication services is publicly available (including information on the terms of services provision, including on the tariffs (prices) specifications of technical connections to such networks, on the bodies responsible for the preparation and adoption of standards affecting such access and use, on the terms of end

connection equipment or other equipment accession, as well as the requirements for notification, registration or licensing and any other permitting procedures, if necessary).

6. Activities in the provision of telecommunication services are implemented on the basis of licenses issued by the competent authorities of the member States within the established territorial borders in compliance with the terms and usage of the numbering assigned to each telecommunication operator in the manner prescribed by the legislation of the member States.

7. In the exercise of the implementation of the provision of telecommunication services with the use of radio spectrum except for a license for operation within the territory of a member State a special permission shall be obtained from the authorized body of the member State on the appropriate allocation of radio frequency bands or radio frequency channels to operate the electronic equipment and assignment of associated radio frequencies (or) radio frequency channels.

8. Allocation of radio frequency bands, radio frequency channels or radio frequencies, assignment (allocation) of radio frequencies or radio frequency channels, issue of a permit for the right to use radio spectrum are carried out in accordance with the legislation of the member States.

9. Payments related to the allocation and use of radio spectrum are charged in the manner and amount established by the legislation of the member States.

10. Member States shall take all necessary measures, including legal and administrative ones, to ensure non-discriminatory and, equal access to telecommunications networks and services.

11. Accession of a telecommunication operator to the public telecommunication network regardless of their position on the market of telecommunication services shall be affected in accordance with the legislation of a member State, if technically possible on terms of no less favorable than those provided to other telecommunications operators by member States acting under comparable conditions.

12. Member States have a right to establish and implement state regulation of tariffs on certain types of telecommunication services. The formation of tariffs for

telecommunication services should be based on the requirements of the legislation of a member State.

Member States shall ensure to any individual and entity of other member States provision of services on tariffs of the host country subject to a contract for the provision of telecommunication services with the operators of the host country.

13. For those types of telecommunication services, tariffs that are not subject for state regulation, member States shall ensure the availability and effective application of competition law, which prevents distortion of competition among providers as well as recipients of telecommunications services of the member States.

14. By January 1, 2020 Council of the Commission must approve a unified approach to the establishment of the pricing of traffic transmission services of the member States.

15. Member States shall take all necessary measures to ensure that telecommunication operators of other member States provide unimpeded traffic transmission, including transit, on the basis of inter-operator agreements, as well as technical networking opportunities.

16. Member States shall guarantee non-use of subsidization of local and long-distance telecommunication through the completion of international calls on their territory.

17. Allocation and use of resources of radio spectrum and numbering resource are implemented in accordance with the legislation of the member States.

18. Member States shall ensure the provision of universal telecommunication services on their territory on the basis of common principles and rules stipulated by the recommendations of international organizations in this field. Each member State is free to determine the obligation to provide universal service. These obligations will not be considered as anti-competitive, provided that they are based on openness, non-discrimination and neutrality in terms of competition and are not be more burdensome than necessary for the type of universal service defined by the member State.

19. Regulatory authorities of the member States are independent from telecommunication operators and not accountable to them. Decisions of such bodies should be impartial with respect to all participants of this market\_\_\_\_\_



APPENDIX. 2  
to the Protocol on Trade in Services,  
Establishment, Activities and Investments

List of «Horizontal» Restrictions Retained by Member States and Applied for

Restriction	Reasons for the application of restrictions (paragraphs of ANNEX 16 of the Treaty)	Reason for applying restrictions (normative legal act)
<b>1. The Republic of Belarus</b>		
1. Conditions and procedures for access, including restricting that access to subsidies and other government support measures, established by the legislation of the Republic of Belarus and fully applied, but without prejudice to the provisions of sections XXIV and XXV	paragraphs 23 and 26	The Budget Code of the Republic of Belarus, Tax Code of the Republic of Belarus, Legislation of the Republic of Belarus on the national budget for the year, Presidential Decree of March 28, 2006 № 182 “On improvement of legal

of the Treaty on the Eurasian Economic Union(hereinafter - Agreement)		regulation of the order of state support for juridical persons and individual entrepreneurs" regulations of the Republic of Belarus, national and local government bodies”
2. Plots from foreign juridical persons and entrepreneurs can be only in rent	paragraphs 23 and 26	Presidential Decree of 27 December 2007 №667 “On withdrawal and granting land” Code of the Republic of Belarus on the ground
3.Procedure for the selection of the concessionaire and the list of the essential terms of the concession agreement shall be in accordance with the legislation of the Republic of Belarus. Activities or entitled to possession and use of the concession on the basis of the concession contract, including the determination of the terms	paragraphs 15- 17, 23, 26, 31and 33	Act of July 12, 2013№ 63-3 “On Concessions” Presidential Decree of August 6,2009 №10 “On creation of additional conditions for investment activity in the Republic of Belarus”, Act of July 12, 2013№ 53-3 «On investments"



and conditions		
4. Priority in granting an animal world for using in a particular area or water is given to juridical persons and citizens of the Republic of Belarus	paragraphs 23 and 26	Act of July 10, 2007 № 257-3 “On Wildlife”
5. Planning (activities on land inventory, land use planning, establishment (restoration) and securing land boundaries of objects, holding other land management activities aimed at improving the efficiency of land use and protection) is only by state organizations subordinating (within the system) to the specially authorized body government	paragraphs 16, 17, 23, 26 and 31	Act of July 15, 2010 № 169-3 “On objects that are wholly owned by the state, and the types of activity for which the exclusive right of the state” Presidential Decree of 27 December 2007 № 667 “On withdrawal and granting land”
6. Technical inventory and state registration of real property rights on it and deals with it are made only by state organizations subordinating (within the system) to the specially authorized body	paragraphs 16, 17, 23, 26 and 31	Act of July 15, 2010 № 169-3 “On objects that are wholly owned by the state, and the types of activity for which the exclusive right of the state” “ Act of July 22, 2002 № 133-3 «On state

of state administration		registration of real property rights to it and deals with it”
7.Evaluationof state property to make deals with him and (or)other legal actions carried out by state agencies, organizations, state ownership in the share capital of more than50%engaged in assessment activities, and organizations subordinating(within the system) to specially the authorized body of state administration	paragraphs 16, 17, 23, 26 and 31	The Presidential Decree of October 13, 2006№615“On appraisal activities”
8. The results of geodetic and cartographic work which are national, cross-sector appointment basis only to state organizations subordinating(within the system) to the specially authorized body of state administration	paragraphs 16, 17, 23, 26 and 31	Act of July 15, 2010№ 169-3 «On objects that are wholly owned by the state, and the types of activity for which the exclusive right of the state”
<b>II. The Republic of Kazakhstan</b>		
Restriction	Reasons for the application	Reason for applying restrictions

	restrictions (paragraphs Annex 16 of the Treaty)	(normative legal act)
1. Conditions and procedures for access, including restricting that access to subsidies and other government support measures, established by the legislation of the Republic of Kazakhstan and the authorities and fully applied, but without prejudice to the provisions of sections XXIV and XXV of the Treaty	paragraphs 23 and 26	The Budget Code of the Republic of Kazakhstan, legislation of the Republic of Kazakhstan on the national budget for the year, regulations of the Republic of Kazakhstan of the central and local government bodies
2. Land plots designated for agricultural production and a forestation can not be in privately owned of foreign persons. The right of temporary paid land for peasant or farming and agricultural production is granted to foreign persons for up to 10 years	paragraphs 23 and 26	The Land Code of the Republic of Kazakhstan
3. Land located in border area and	paragraphs 23 and 26	The Land Code of the Republic of

<p>border land Republic of Kazakhstan as well as within the boundaries of seaports are not given to private ownership foreigners and foreign legal parties.</p> <p>Agricultural land immediately adjacent (three-kilometer zone) to the buffer zone of the State Border of the Republic of Kazakhstan, available only to citizens and juridical persons of the Republic of Kazakhstan on the right of temporary use of land to their delimitation and demarcation, unless otherwise provided by law</p>		<p>Kazakhstan</p> <p>Law of the Republic of Kazakhstan from September 21, 1994 №156-XIII «On Transport in the Republic of Kazakhstan"</p> <p>Law of the Republic of Kazakhstan from January 16, 2013 №70-V «On the State Border of the Republic of Kazakhstan"</p>
<p>4. The right of permanent land use is not may belong to foreign land users</p>	<p>paragraphs 23 and 26</p>	<p>The Land Code of the Republic of Kazakhstan</p>
<p>The conditions of such contracts with respect to subs oil use contracts between</p>	<p>paragraphs 16, 17, 23, 26, 31, 33 and 35</p>	<p>The Law of the Republic of Kazakhstan dated June 24, 2010 №291-IV «On</p>

<p>the Government of the Republic of Kazakhstan and the subsoil user entered into in accordance with the Law of the Republic of Kazakhstan dated June 24, 2010№291-IV “On Subsoil and Subsoil Use «before the date of entry into force of the Treaty</p>		<p>Subsoil and Subsoil Use”, the law of the Republic of Kazakhstan “On Subsoil and Subsoil Use” dated January 27, 1996, the law of the Republic of Kazakhstan “On Oil” from June 28, 1995</p>
<p>6. In regard to subsoil use contracts between the Government of the Republic of Kazakhstan and the subsoil user entered into in accordance with the Law of the Republic of Kazakhstan dated June 24, 2010 № 291-IV «On Subsoil and Subsoil Use" after the entry into force of the Treaty :</p>	<p>paragraphs 16, 17, 23, 26, 31, 33 and 35</p>	<p>The Law of the Republic of Kazakhstan dated June 24, 2010№291-IV «On Subsoil and Subsoil Use” The Law of the Republic of Kazakhstan “On Subsoil and Subsoil Use” dated January 27, 1996, The Law of the Republic of Kazakhstan “On Oil” from June 28, 1995</p>

<p>6.1. The Republic of Kazakhstan shall retain the right to demand from the investors in accordance with the investment contract for procurement of services from entities of the Republic of Kazakhstan:</p> <p>6.1.1. for exploration and mining of solid minerals - not more than 50% of all purchased services such investor in connection with the investment contract</p> <p>6.1.2. for exploration and production of hydrocarbons:</p> <p>6.1.2.1. Before January 1, 2016 - not more than 70% of all purchased services such investor in connection with the investment contract</p> <p>6.1.2.2. from 1 January 2016 until the date of accession of the Republic of Kazakhstan to the WTO - not more than</p>		
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60% of all purchased services such investor in connection with the investment contract

6.1.2.3. From the date of accession of the Republic of Kazakhstan to the WTO - not more than 50% of all purchased services such investor in connection with the investment contract

6.2. within 6 years after the accession of the Republic of Kazakhstan to the WTO during the competition to attract investor subcontractor investor conditionally reduces by 20% the price of competitive bids submitted by a juridical person of the Republic of Kazakhstan, if at least 75% of skilled employees that subcontractor are citizens of the Republic of Kazakhstan, provided that the juridical person of the Republic of

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<p>Kazakhstan to meet the standards and quality characteristics specified in the tender documentation</p> <p>6.3. after 6 years from the date of accession of the Republic of Kazakhstan to the WTO during the competition to attract investor subcontractor investor conditionally reduces the price by 20% competitive application submitted by a juridical person of the Republic of Kazakhstan, if at least 50% of skilled employees that subcontractor are citizens of the Republic of Kazakhstan, provided that the juridical person of the Republic of Kazakhstan to meet the standards and quality characteristics specified in the tender documentation</p> <p>6.4. in establishing the conditions of competition for the right of subsoil use</p>		
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Republic of Kazakhstan will not set minimum local content in frames or services in exceeds of 50%, subject to the following:

6.4.1. Kazakhstan content in frames to attract investors, who have been granted the right of subsoil use (hereinafter - the investor) will be calculated as the proportion

equally based on the number of heads, managers and professionals within the meaning of these terms is defined for purposes of entry and temporary stay of persons transferred within the framework of intra-corporate transfer, on market access for services in the Schedule of specific commitments of the Republic of Kazakhstan to the WTO (hereinafter - skilled employees) who

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are citizens of the Republic of Kazakhstan

6.4.2. Kazakhstan content in all services provided to investors, defined as the proportion of the total annual amount of payments (expenses) for the provision of services for all contracts that were paid to juridical persons of the Republic of Kazakhstan. However, the amount paid by the entity of the Republic of Kazakhstan, shall be reduced by any amount which has been paid for services rendered on the basis of the sub-contract on any level, organizations are not juridical persons of the Republic of Kazakhstan

6.4.3. In determining the winner of the tender for the rights of the Republic of Kazakhstan subsoil should not consider

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<p>the fact that a prospective investor may offer the level of local content in frames and services more than 50%</p> <p>6.5. The Republic of Kazakhstan shall retain the right to demand from the investors in accordance with the investment contract procurement of goods in the manner and under the conditions provided for in paragraph 5 of Section II of the list to the Annex 28 of the Treaty</p>		
<p>7. With regard to the procurement of the National Welfare Fund "Samruk-Kazyna" (NWF) and organizations, 50% or more of the voting shares (participation) which directly or indirectly owns "Samruk-Kazyna", as well as in companies that directly or indirectly owned by the state (in which</p>	<p>paragraphs 16, 17, 23, 26, 31, 33</p>	<p>The Law of the Republic of Kazakhstan dated February 1, 2012 35 number 550-IV «About the National Welfare Fund» Resolution of the Government of the Republic of Kazakhstan dated May 28, 2009 № 787 "On approval of the Model Regulations on procurement of goods, works and services undertaken by</p>

<p>the state's share is 50% or more) in accordance with the Law of the Republic of Kazakhstan dated February 1, 2012 № 550-IV «On the National Welfare Fund" and the Government of the Republic of Kazakhstan dated May 28, 2009 № 787 “On Approval of the Model Rules of procurement of goods, works and services undertaken by national management holding company, national holdings, national companies and organizations, and 50 and more percent of shares (shares) directly or indirectly owned by the national managing holding company, national holding company, the national company” exemption of local content is stored and used under the conditions and in accordance with paragraph 6 of</p>		<p>national management holding company, national holdings, national companies and organizations, and more than fifty percent of shares (shares) directly or indirectly owned by the national managing holding company, national holding company, the national company”</p>
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<p>section II of the list to the application number 28 of the Treaty 4</p>		
<p>8. Public body may refuse to permit the applicant to carry out transactions on the use of strategic resources and (or) the use, procuring strategic installations in the Republic Kazakhstan, though it may result in the concentration of rights from one person or group of persons of one countries. Compliance with this condition is mandatory and against transactions with affiliates. In order to ensure national Security Government of the Republic Kazakhstan set limits on the transition and the emergence of rights ownership of strategic resources (objects) of the</p>	<p>points 15, 16, 23, 26, 31 and 33</p>	<p>The Law of the Republic of Kazakhstan dated January 6, 2012 №527-IV «On national security» The Law of the Republic of Kazakhstan dated July 2, 2003 №461 strategic resource and (or) «On the Securities Market»</p>

<p>Republic of Kazakhstan. In order to implement including appropriate decision (act) of Government of the Republic of Kazakhstan issuer, a controlling stake which directly or indirectly belongs to the national management holding, when placing shares on the organized securities market</p> <p>securities may not sell shares to foreign citizens and (or) juridical persons and stateless persons</p>		
<p>9.Procedure9. Procedure for the selection of the concessionaire and list of essential conditions concession agreement established in accordance with legislation of the Republic of Kazakhstan. We reserve the right assign exclusive</p>	<p>paragraphs 15- 17, 23, 26, 31and 33</p>	<p>The Law of the Republic of Kazakhstan dated July 7, 2006№ 167-3 «On Concessions"</p>

concessionaire. Individual rights and obligations of the grantor may carry out by authorized grantor.		
10. Restrictions may impose for activities within the continental shelf of the Republic of Kazakhstan.	paragraphs 15- 17, 23, 26, 31and 33	The Law of the Republic of Kazakhstan dated June 24, 2010 №291-IV «On Subsoil and Subsoil Use"
11.Priority in granting usage of wildlife in a particular area or water given to juridical persons and citizens of the Republic of Kazakhstan	paragraphs 23 and 26	The Law of the Republic of Kazakhstan dated July 9, 2004 №593-II «On protection, reproduction and use of wildlife"
<b>III. The Russian Federation</b>		
1. Conditions and procedures for access, including restricting that access to subsidies and other government support measures established by the federal, regional and municipal authorities and fully applied, but without prejudice to the provisions of sections XXIV and	Paragraphs 23 and 26	The Budget Code of the Russian Federation, the federal law on the federal budget for the year, regulations of the Russian Federation, subjects of Russian Federation and municipalities

XXV of the Treaty		
2. Foreign ownership of agricultural land and land border areas is prohibited and may be limited to other types of land. Lease of land is permitted for a period of up to 49 years	paragraphs 23 and 26	The Land Code of the Russian Federation, the Federal Law of July 24, 2002 №101-FZ “On the turnover of agricultural lands”
3. Russian juridical persons, the authorized (share) capital share of foreign persons (or their combined share) is greater than 50% can own agricultural land plots exclusively on lease. The term of such lease may not exceed 49 years	paragraphs 23 and 26	The Land Code of the Russian Federation, the Federal Law of July 24, 2002 №101-FZ “On the turnover of agricultural lands”
4. Operations with lands of the traditional residence economic activities of indigenous people and small ethnic groups, as well as land plots located on border areas and in other areas specifically set Russian Federation	paragraphs 23 and 26	The Land Code of the Russian Federation, the Federal Law on February 1, 1993 № 4730-1 “On the State Border of the Russian Federation”



maybe restricted or prohibited under with the regulations of the Russian Federation		
5. Juridical persons of the Russian Federation have preemptive right to participate in the implementation of the agreement production sharing as contractors, suppliers, transporters or other agreements(contracts)with investors with respect to trade in services specified in the second and third subparagraph 22 of paragraph 6 of Annex 16 to the Treaty	paragraph 23	The Federal Law of 30 December 1995 №225-FZ by modes of supply “On Production Sharing Agreements”
Member State entities registration as an individual entrepreneur in the closed administrative-territorial entity in the Russian Federation, the acquisition by	paragraphs 15 - 17,23,26, 31 and 33	The Federal Law of July 14, 1992 № 3297-1 «On closed administrative-territorial establishment”

persons of any other member State's share in the capital of juridical persons registered in the closed administrative-territorial formation, as well as the activities of juridical persons registered in the closed administrative - territorial entity (including foreign capital), branches and representative offices may be restricted or prohibited in accordance with the regulations of the Russian Federation		
7.Restrictions may impose on the activities on the continental shelf of the Russian Federation	paragraphs 15- 17, 23, 26, 31and 33	The Federal Law of November 30, 1995№ 187-FZ “On the continental shelf of the Russian Federation”
8. Priority in granting of wildlife usage on specific territory or waters is given to juridical persons and citizens of the Russian Federation	paragraphs 23 and 26	The Federal Law of April 24, 1995№52-FZ “On Wildlife”
9. Concerning the conclusion of the	paragraphs 23 and 26	Federal Law of 30 December 1995

<p>production sharing agreements that were entered into before January 1, 2012 (the Agreement):</p> <p>auction terms on an agreement should be provided for the participation of Russian juridical persons in the implementation of agreements in shares determined by the Government of the Russian Federation.</p> <p>The agreement provides for the obligation of the investor: Russian juridical persons providing preemptive right to participate in the work under the agreement as contractors, suppliers, transporters or other on the basis of agreements (contracts) with investors</p> <p>attract employees - citizens of the Russian Federation, the amount of</p>		№225-FZ “On Production Sharing Agreements”
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<p>which shall be not less than 80% of all employees involved, attract foreign employees and specialists only in the initial stages of work under the agreement or in the absence of employees and specialists - citizens of the Russian Federation to the corresponding qualifications</p> <p>acquisition of required for exploration and production, transportation and processing of minerals processing equipment, tools and materials of Russian origin in the amount of not less than 70% of the total cost (including leases, leasing and otherwise) in each calendar year for perform work under the agreement the equipment, tools and materials, the cost of the acquisition and using of which is</p>		
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reimbursed by the investor compensation products. In this equipment, facilities and materials are of Russian origin, provided that they are made by Russian juridical persons and (or) the citizens of the Russian Federation in the territory of the Russian Federation of the components, parts, structures and components, not less than 50% in value of in the territory of the Russian Federation Russian juridical persons and (or) the citizens of the Russian Federation.

Member State should include in the agreement a condition that not less than 70% of the process equipment in value terms for the mining, transportation and processing (if envisaged agreement) purchased and

<p>(or) used by the investor to perform work under the agreement must be Russian origin. This provision does not extend to the use of trunk pipeline transport, construction and purchase agreement which does not provide</p>		
<p>10. The selection procedure of the concessionaire and theist of the essential terms of the concession agreement are set in accordance with the legislation of the Russian Federation. It reserves the right to assign the exclusive concessionaire. Individual rights and responsibilities can be carried out by authorized grantor.</p>	<p>paragraphs 15- 17, 23, 26, 31and 33</p>	<p>The Federal Law of July 21, 2005 №115-FZ “On Concession Agreements”</p>
<p>11. Transactions made by any person of another member State and which entails the establishment of control over Russian business entities engaged in at</p>	<p>paragraphs 15, 16, 23, 26, 31 and 33</p>	<p>The Federal Law of April 29, 2008 №57-FZ “On Foreign Investments in Business Entities of Strategic Importance for National Defense and</p>

least one of the activities of strategic importance for national defense and state security, require the approval of the authorized body of the Russian Federation in order determined by the regulations of the Russian Federation.

Foreign governments, international organizations, as well as under their control persons, including those created in the territory of the Russian Federation shall not perform any transaction entailing the establishment of control over Russian business entities engaged in at least one of the activities of strategic importance for defense and national security.

Foreign investors or group of persons shall submit to the competent authority information about purchasing 5 or more

State Security”

<p>percent of shares (stakes) comprising the authorized capital of companies engaged in at least one of the activities of strategic importance for national defense and state security</p>		
<p>12.Land borders seaport can not be in ownership of foreign citizens, stateless persons, foreign organizations</p>	<p>paragraphs 23 and 26</p>	<p>The Federal Law of November 8, 2007 № 261-FZ “On the seaports of the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation”</p>



PROTOCOL  
of Financial Services

1. This Protocol has been executed in accordance with Article 70 of the Treaty on the Eurasian Economic Union (hereinafter referred to as the Treaty) and shall be applied to the measures of the member States concerning the financial services trade, as well as the establishment and/or activities of the financial services providers.

2. The provisions of this Protocol shall not be applied to the delivered services and to the activity, carried out in order to implement the functions of the State authority on a non-profit basis and not on the terms of competition, as well as with regard to the provision of subsidies.

3. The definitions, used in this Protocol, shall have the following meanings:

“Government-owned institution” shall mean a Governmental authority or a National (central) bank of a member State, or an organization of the member State, owned by the member State or controlled by this member State, which exercises only the powers that were delegated by a Governmental authority of this member State or the National (Central) bank of such member State;

“Activity” shall mean the activity of juridical persons, branch offices or representative offices, established within the meaning of this Protocol;

“Legislation of a member State” shall mean the legislation and other regulatory and legal acts of a member State, and normative acts of the National (Central) bank of a member State;

“Credit institution” shall mean a juridical person of a member State, which, in order to make profit as the main purpose of its activity on the basis of the license on banking regulations, issued by the authorized body of a member State, shall be entitled to perform banking transactions in compliance with the Legislation of the member State, where it is registered;

“License” shall mean a special permission (document), issued by the authorized body of a member State, that confers to its Owner a right for the carrying out of a certain type of activities in the territory of a member State;

“National regime” shall mean an affordance to the persons and financial services of another member State under the trade in financial services, of a regime that shall not be less favorable than the regime, granted under the similar circumstances to own persons and financial services within the home territory;

“Common financial market” shall mean a financial market of the member States that corresponds to the following criterion:

Harmonized requirements for regulation and surveillance in the area of financial markets of the member States;

Mutual recognition of licenses in the banking and insurance sectors, as well as in the services sector on the market of securities, issued by the authorized bodies of one member State within the territories of other member States;

Carrying out of the activities on granting of financial services over the whole area of the EAEU excluding the additional establishment as a juridical person;

Administrative cooperation between and among the authorized bodies of the member States, including the information communication;

“Body of a member State” shall mean a body of the Governmental authority, its National (Central) bank;

“Supply/trade in financial services” shall mean a rendering of financial services, including production, distribution, marketing, sale and supply of services, executed in the following ways:

From the territory of one member State to the territory of another member State;

Within the territory of one member State by a person of this member State to a person of another member State (a Service Consumer);

By a Financial Services Provider of one member State via the establishment and activities performance in the territory of another member State;

“Financial Services Provider” shall mean any natural or juridical person of a member State, which provides financial services, excluding government-owned institutions;

“Professional securities market participant” shall mean a juridical person of a member State, which is entitled to carry out professional activities on the securities market in compliance with the Legislation of a member State, on which territory it is registered;

“Most favored nations regime” shall mean a granting to persons and financial services of another member State under the trade in financial service of a regime that shall not be less favorable than the regime, granted under the similar circumstances to the persons and financial services of Third Countries;

“Financial services sector” shall mean a whole financial services sector, including all its subsectors; and with regard to the withdrawal from obligations, restrictions and conditions of a member State, one, several or all subsectors of a certain financial service;

“Insurance organization” shall mean a juridical person of a member State that is entitled to carry out insurance (reinsurance) activities in

compliance with the Legislation of a member State, within which territory it is registered;

“Economic efficiency test” shall mean an issue of a permit for the establishment and/or activity or provision of a service depending on the presence of the necessity and demand of the market, based on the economic appraisal of the Service Provider activity’s against the objectives of the economic planning of the specific industry;

“Authorized body” shall mean a body of member State, which, in compliance with the Legislation of this member State, shall have the authority to execute the regulation and/or surveillance and control over the financial market and financial organizations (specific areas of the financial market);

“Establishment” shall mean a creation and/or acquisition of a juridical person (participation in the capital of a created /established juridical person) of any legal organizational and proprietary form, envisaged by the Legislation of a member State within which territory such juridical person is created or established;

Acquisition of control over a juridical person of a member State, expressed in a receipt of possibilities to define the decisions, taken by such legal person, directly or with the help of third persons, and specifically by the management of votes, attributable to voting stocks (shares); by participation in the Board of Directors (the Supervisory Commission) and other governing bodies of this juridical person;

Opening of a branch office;

Opening of a Representative Office;

“Financial services” shall mean the services of financial nature, including the following kinds of services:

1) Insurance and insurance-related services:

a) Insurance (coinsurance): life insurance, and insurance other than life insurance;

b) Re-insurance;

c) Insurance mediation, such as brokerage and agential mediation;

d) Auxiliary insurance services, such as consulting, actuarial services, risk assessment services and services on adjustment of claims;

2) Banking services:

a) Collection of holdings (deposits) and other repayable monetary funds from the population;

b) Granting of loans, credits, and borrowings of all kinds, including consumer's and securing credits, factoring and funding of commercial transactions;

c) Financial leasing;

d) All kinds of services on payments and cash transfers;

e) Sale at own expense and at the expense of Customers, on the exchange market and on the over-the-counter market, or otherwise: by a foreign exchange; derivative securities, including futures and options; instruments, pertaining to foreign exchange rates and interest rates, including swap transactions and forward business;

f) consulting, intermediary and other auxiliary financial services of all activity types, specified in this subparagraph, including inquiry and analytical materials, associated with the credit conditions' analysis;

3) Services on the securities market:

a) Sale of financial instruments at own expense and at the expense of Customers, on the exchange market and on the over-the-counter market, or otherwise;

b) Participation in the emission (issuance) of all kinds of securities, including the support and contribution, in the function of an Agent

(Governmental or private), and rendering of services, relating to such emission (issuance);

c) Brokerage operations on the financial market;

d) Management of such assets as monetary funds or securities, all types of the pooled investments' management, management of assets and investment portfolios of retirement funds, patronage, services for deposition and trust services;

e) Clearing services for financial assets, including securities, derivative securities and other financial instruments;

f) Supply and communication of financial information, processing of financial data and provision and supply of the appropriate software to the providers of other financial services;

g) Consulting, intermediary and other auxiliary financial services in all types of the activities, specified in this subparagraph, including the investigations and recommendations for direct and portfolio investments, recommendation with regard to the matters of acquisition, corporate reorganization and strategies.

Other definitions in this Protocol shall be used within a meaning, specified in the Protocol on trade in services, establishment, activities and investments (Appendix No.16 to the Treaty).

4. Each member State shall provide the National Regime and the Most Favored Nations Regime to financial service providers (legal persons of other member States) with regard to the rendering independently, through an Intermediary or in the capacity of the Intermediary, in accordance with the conditions, specified in individual national lists of the member States in Appendix No. 1 to this Protocol, from the territory of one member State to the territory of another member State of the following kinds of financial services:

1) Insurance against risks, relating to:

The international maritime traffic and commercial air traffic, commercial space launches and a freight traffic activity (including satellites), in relation of which such insurance affects either totally or partially: transportable goods; transportation vehicles for goods carriage and civil responsibility arising in connection with transportation;

Goods, movable within the framework of international transit;

2) Re-insurance, as well as such auxiliary insurance services, as consulting services, actuarial services, risk assessment and services on adjustment of claims;

3) Supply, communication of financial information, processing of financial data and of the relevant software of other financial services providers;

4) Consulting and other auxiliary services, inclusive of the submission of inquiry materials (excluding the intermediation and services, related to the analysis of credit records, investigations and recommendations for direct and portfolio investments, recommendations with regard to the matters of acquisition, corporate reorganization and strategies) with respect to services on the market of securities and banking services.

5. Each member State shall allow consuming the financial services, specified in subparagraphs 1 – 4 of paragraph 4 of this Protocol, to the persons of this member State within the territory of any other member State.

6. Each member State shall provide the National regime subject to the restrictions, envisaged by a national individual list for each member State in Appendix No.2 to this Protocol, to the persons of any other member State with regard to the establishment and/or activities of the financial services providers, as they shall be defined in paragraph 3 of this Protocol, within its own territory.

7. Each member State shall provide the Most Favored Nations Regime to the persons of any other member State with regard to the establishment and/or activities of the financial services providers, as they shall be defined in paragraph 3 of this Protocol, within its own territory.

8. The matters, concerning the trade in financial services with Third Countries, activities of juridical persons, in which capital the State shall be a participant; the consumers of financial services; participation in privatization; protection of investor rights; payments and transfers; indemnification; assurance for investors, including assurances in case of expropriation; the lapse of investor rights; and the investment dispute settlement procedure shall be regulated by the Protocol on trade in services, establishment, activities and investments (Appendix No. 16 to the Treaty).

9. The provision of this Protocol shall be applied to legal persons, representative offices, which were established as of the Treaty effective date and stay persistent at present, and which were established upon the entry into force of the Treaty.

10. Within the limits of the sectors, listed in paragraph 4 of this Protocol, except the cases, stipulated in Appendix No. 1 to this Protocol, none of the member States shall apply and impose restrictions with regard to financial services and the financial service providers of another member State in connection with the trade in services in respect of:

A number of the financial service providers in the form of quotas, privileges, monopoly, the economic efficiency test or in any other quantitative form;

Transactions of any financial services provider in the form of quotas, the economic efficiency test in any other quantitative form.

Within the limits of the sectors, listed in paragraph 4 of this Protocol, except in cases, stipulated in Appendix No. 1 to this Protocol, none of the



member States shall impose and apply the requirements of the establishment as a condition for the trade in financial services, with regard to the financial service providers of another member State.

11. With the exception of the restrictions, provided by the individual national list for each member State in Appendix No.2 to this Protocol, none of the member States on their territories shall apply and impose restrictions to the financial service providers of any other member State in connection with the establishment and/or activities of the financial services providers with regard to:

- 1) Forms of the establishment, including the juridical person form;
- 2) Numbers of the establishing juridical persons, branch offices or representative offices in the form of quotas, the economic efficiency test and in any other form;
- 3) The acquirable extent of the share in the capital of a juridical person or the amount of control over the legal person;
- 4) Transactions of the established legal person, branch office or representative office in the course of the carrying out of the activities in the form of quotas, the economic efficiency test and in any other quantitative form.

12. The issues of the entry, exit, and stay and laboratory activity of natural persons shall be regulated by Section XXVI of the Treaty subject to the restrictions, specified in the individual national list for each member State in Appendix No. 2 to this Protocol.

13. With respect to the financial services, specified in the individual national list in Appendix No. 1 to this Protocol, and to the restrictions, concerning the establishment and/or the activities, indicated in the individual national list in Appendix No. 2 to this Protocol, each member State shall

ensure that all measures of this member State, effecting the trade in financial services, shall be applied in a reasonable, objective and unprejudiced manner.

14. In case of the necessity for a permission on supply of financial services that are specified in the individual national list in Appendices 1 and 2 to this Protocol, the authorized bodies of the member State shall, within a reasonable period of time after the application's submission, which is considered to be executed according to the legislation of the member State and the regulation rules, inform the Applicant of the decision concerning the application. The authorized bodies of the member State shall, on the demand of the Applicant, provide the information on the application processing without undue delay.

15. In order to provide such a condition so that the measures, relating to qualification requirements and procedures, technical standards and licensing requirements, did not raise unjustified barriers in the trade in financial services, the member State shall be entitled to develop any necessary regulations through the relevant bodies, which they may create. These regulations shall provide, inter alia, so that the requirements, containing therein, shall:

- 1) Be based on impersonal and publicly disclosed criterion, such as competency and ability to provide services;
- 2) Not be more burdensome than it is required to provide the qualitative services;
- 3) Not present in themselves a restriction for the service provision in case of licensing procedures.

16. Prior to the entry into force of the rules, worked out in accordance with paragraph 15 of this Protocol, the member States shall not apply any licensing or qualification requirements and technical standards, revoking or reducing the profits, which are provided according to the conditions, specified

in individual national lists in Appendices No. 1 and 2 to this Protocol, towards the financial service sectors, stipulated in individual national lists in Appendices No. 1 and 2 to this Protocol.

Herewith, the applied licensing or qualification requirements and technical standards, applied by the member State, shall comply with the criterion, indicated in subparagraphs 1 – 3 of Paragraph 15 of this Protocol, and should be reasonably expected from this member State as of the date of signature of the Treaty.

17. Whether a member State applies licensing in relation to the establishment and/or activities of the financial service providers, then such member State shall provide for the following:

1) Names of the authorized bodies of a member State, responsible for the issuance of licenses to carry out the activities, shall be published or otherwise shall be brought to common knowledge;

2) Licensing procedures shall not present in themselves a restriction for the establishment or activities and so that the licensing requirements, directly related to a right to carry out activities, shall not present in themselves a barrier for the activities;

3) All licensing procedures and requirements shall be specified in the legislation of a member State, and any legislation of a member State, specifying or applying licensing procedures or requirements, shall be published prior to its entry into legal force;

4) Any dues, collected in respect of the submission and consideration of the application for license issuance, shall not present in themselves a restriction for the establishment and activities, and shall be based on the expenses of the licensing body of a member State, related to the application processing and license issuance;

5) At the end of time period, established by the Legislation of a member State for taking decisions on issuance license (refusal to issue license), and, at the request of the Applicant, the appropriate authorized body of a member State that is responsible for the license issuance shall inform the Applicant on the status of its application processing and on the correctness of such application. In all circumstances, the Applicant shall be granted with a possibility to bring in engineering changes to the application. The application shall be considered properly filled only upon the receipt of the entire information and documents, indicated in the appropriate legislation of a member State;

6) Upon the written request of the Applicant, who has been denied to accept the application, the authorized body of a member State, that is responsible for the license issuance and that denied accepting the license, shall inform the Applicant in writing of the reasons for such denial. However, this provision shall not be interpreted as the provision, requiring from the licensing body of a member State to disclose the information, which disclosure impedes the execution of the legislation of a member State or any other way contradicts the public interests or substantial security interests;

7) In case of a denial to accept the application, the Applicant shall submit a new application where he/she shall try eliminating any available problems, related to the license issuance;

8) The issued license shall be valid within the whole territory of a member State.

18. The procedure and terms of the issuance of licenses for the operation on the financial service markets in the territory of a member State shall be imposed by the legislation of the member State within the territory of which the execution of such activities is proposed.

19. Nothing in this Protocol shall impede to a member State to take prudential measures, including the protection of the interest of investors, depositors, insurant, beneficiary parties and persons, towards whom the service provider bears a fiduciary responsibility or measures for the provision of integrity and consistency of the financial system. If such measures do not comply with the provisions of this Protocol, they shall not be used by a member State as the means for avoidance of the obligations, undertaken by this member State in accordance with this Treaty.

20. Nothing in this Protocol shall be interpreted as the requirement to a member State to disclose the information, related to the accounts of individual clients or any other confidential information, or information available for the public institutions.

21. The member States, based on international principles and standards or the best international practice and not behind the best standards and practice, which have been already applied in the member States, shall carry out the development of harmonized requirements in the area of the financial market regulation in the following service sectors:

Banking sector;

Insurance sector;

Service sector on the securities market.

22. Within the banking sector, the member States shall harmonize the requirements on regulation and surveillance over credit institutions, guided in their activities by the best international practice and the Core principles for effective banking supervision of the Basel Commission for Banking Supervision, including with regard to:

1) A definition, such as “credit institution” and a legal status of the credit institution;

2) Process and conditions of information disclosure by credit institutions, banking groups and their affiliated persons and banking holdings;

3) The requirements for the accounting (financial) reporting based on the International financial reporting standards;

4) The procedure and conditions of the establishment of a credit institution, in particular with regard to:

The requirements for the constituent instruments;

The process of a state registration of the credit institution in the form of a juridical person (branch office);

The determination of the lower limit of the equity capital, belonging to the credit institution, and the procedure of its formation and methods of its payment;

The requirements for the professional qualification and business reputation of the Management staff of the credit institution;

The process and conditions for the issuance of a license for banking transactions execution, including also with regard to the documents, required for the acquisition of the license for banking transactions execution;

5) The reasons for rejection of the registering of the credit institution and issuance of a license for banking transactions execution;

6) The process, procedure and conditions of liquidation (inclusive of a compulsory liquidation) or reorganization of the credit institutions;

7) The reasons for the recall of the license for banking transactions from the credit institution;

8) The procedure and particularities of reorganization of credit institutions in the form of merging, joining and restructuring;

9) Ensuring of the financial reliability of a credit institution, which includes the determination of other, apart from banking transactions, activity

types, allowed for credit institutions, prudential regulations, statutory reserves and special provisions;

10) Procedure for the execution of surveillance over the activities of credit institutions, banking holdings and banking groups by the authorized bodies of the member States;

11) The level, procedure and conditions of application of the sanctions towards credit institutions and banking holdings;

12) The requirements for the activity and ensuring of the financial reliability of banking groups and banking holdings;

13) The establishment and functioning of the public endowment insurance system (including the deposit indemnification payout amounts);

14) Procedures of financial rehabilitation and bankruptcy of credit institutions (including the regulation of creditor's rights and priority of claims);

15) A list of transactions, which shall be recognized as banking ones;

16) A list and status of organizations, which shall be entitled to carry out particular technological parts of banking transactions.

23. Within the framework of the insurance sector the member States shall harmonize the requirements on regulation and surveillance over the professional insurance market participants, guiding in their activities by the best international practice and the Core Insurance Supervision Principles of the International Association of Insurance Supervisors and, inter alia, with respect to:

1) A definition, such as "professional insurance market participant" and the legal status of the professional insurance market participant;

2) The provision of the financial sustainability of the professional insurance market participant, inter alia, with respect to:

Insurance reserves, sufficient for the fulfillment of obligations on insurance, co-insurance, re-insurance and mutual insurance;

The composition and structure of the assets, accepted to cover the insurance reserves;

The lower level and procedure of forming of the registered and stockholder capitals;

Conditions and procedure of the insurance portfolio transmission;

3) The requirements for the accounting (financial) reporting based on the International financial reporting standards;

4) The procedure and conditions of the establishment and licensing of the insurance activities;

5) The procedure of the execution by the authorized bodies of the member States of the surveillance over the activities of the professional insurance market participants;

6) The level, procedure and conditions of application of the sanctions towards the professional insurance market participants due to disorder carrying out the activities on the market;

7) The requirements for the professional qualification and business reputation of the Management staff of the professional insurance market participants;

8) The reasons for rejection of the issuance of the license to carry out insurance activities;

9) The process, procedure and conditions of liquidation of the professional insurance market participant, inclusive of a compulsory liquidation (bankruptcy);

10) The reasons for the recall of the license to carry out insurance activities from the professional insurance market participant, as well as the revocation, limitation or suspension of such license;



11) The procedure and particularities of reorganization of the professional insurance market participant in the form of merging, joining or restructuring;

12) The requirements for the composition of insurance groups, insurance holdings, and their financial reliability.

24. Within the framework of the securities sector, the member States shall harmonize the requirements on the following types of activities:

Brokerage activity on the securities market;

Dealing activity on the securities market;

Activities on management of securities, financial instruments, management of assets and investment portfolios of retirement funds, as well as of the pooled investments;

Activity on determination of mutual obligations (clearing);

Depositary activity;

Activity on maintenance of register of the securities owners;

Activity on the settlement of trade on the securities market.

25. The member States shall harmonize the requirements on regulation and surveillance over the securities market, guided in their actions by the best international practice and principles of the International Organization of Securities Commissions and the Organization of Economic Cooperation and Development, and, inter alia, with respect to:

1) Establishing of the procedure of forming and payment of the registered capital, and the requirements for the capital adequacy;

2) The procedure and conditions of issuance of the license to carry out activities on the securities market, including the requirements for the documents, required for the receipt of such license;

3) The requirements for the professional qualification and business reputation of the Management staff of the Professional securities market participants;

4) The reasons for the denial to issue the license to carry out activities on the securities market, as well as the revocation, limitation or suspension of such license;

5) The requirements for the accounting (financial) reporting based on the International financial reporting standards, as well as the requirements for the settlement of internal accounting and internal control;

6) The process, procedure and conditions of liquidation (inclusive of a compulsory liquidation) or reorganization of the professional securities market participant;

7) The reasons for the recall of the license to carry out activities on the securities market from the professional securities market participant;

8) The level, procedure and conditions of application of administrative sanctions towards the professional securities market participants due to the disorder carrying out the activities on the financial market;

9) The procedure of the execution of the surveillance over the parties (participants) of the securities market by the authorized bodies of the member States;

10) The requirements, applicable to the activities of the Professional securities market participants;

11) The requirements for the emission procedure (the issuance procedure) of the Issuer's securities;

12) The requirements for the placement and circulation of securities of foreign issuers on the securities markets of the member States;

13) The requirements for the volume and quality, and for the periodicity of information publication;

14) The provision of the possibility of the placement and circulation of securities of the issuers of the member States over the whole area of the EAEU subject to the registration of the emission (issuance) of securities by a regulatory body of the Country of the Issuer registration;

15) The requirements in the area of information disclosure by the issuers and for the action against the illegal exploitation of the insider information and manipulation on the securities market.

26. The member States shall work out harmonized requirements for the audits conduction based on the International Auditing Standards.

27. The member States shall develop mechanisms of cooperation of the authorized bodies of the member States in the area of regulation, control and surveillance over the activities on their financial markets, including the activities in the banking, insurance and securities servicing sectors.

The member States shall exchange information, including confidential one, in accordance with the international Treaty within the framework of the EAEU.

28. Each member State shall ensure that the legislation of this member State, which touches or may touch upon the matters, covered by this Protocol, shall appear in any official source and, whenever possible, on a specially designated web-site in such a manner as to any person, which rights and/or obligations could be affected by this legislation of a member State, had the opportunity to check it out.

Promulgation of such legislation shall include the explanation of the purposes for the accepting of this legislation and shall be executed on the date, providing a legal certainty and reasonable expectations of the persons, which rights and/or obligations may be affected by this legislation of a member State, and, in any case, before the date of its entry into force.

29. Each member State shall establish a mechanism, providing for the submission of answers to written requests of any person, relating to the effective and/or planned Legislation of acts with regard to the matters, covered by this Protocol. The inquiry answers shall be submitted to such person concerned within 30 calendar days from the date of receipt of a written request.

30. The member States, for the prevention of system risks on financial markets, shall perform harmonization of their legislation in respect of the requirement to carry out the activities of credit rating agencies in compliance with the principles of transparency, accountability and responsibility.

31. A member State shall recognize prudential measures of any other member State upon the determination of measures, relating to the financial service provision. This recognition, which shall be achieved with the help of harmonization of the legislation of the member States or otherwise, shall be based on an Treaty or arrangement with the interested member State or shall be provided unilaterally.

2. A member State that is a participant of the Treaty/Arrangement on recognition of prudential future and current measures of another member State shall provide other member States with a possibility to hold negotiations on their joining to such Treatys or arrangements, which could contain rules, control and mechanism of the fulfillment of these rules, and, if it is possible, the procedures, related to the information exchange between and among the participants of such Treatys and arrangements.

33. Harmonization of specific requirements for the carrying out the activities on financial markets of the member States shall be executed so long the persisting differences shall not impede to the effective performance within the limits of the EAEU of the overall financial market.

34. Noting in this Protocol shall prohibit any member State from accepting or applying the below-mentioned measures subject to that such measures shall not be applied in such a manner, which stimulates a spontaneous or unjustified discrimination between and among the persons of member States with regard to the trade in services, establishment and/or activity, more specifically:

1) required to protect public morals or to maintain public order. Exceptions for reasons of public order can only be applied in cases where genuine and sufficiently serious threats against one of the fundamental interests of society take place;

2) required to protect the life or health of humans, animals or plants;

3) required to comply with legislation or regulations which shall be consistent with the provisions of this Protocol including those relating to:

prevention of deceptive and fraudulent practices or to the consequences of non-compliance with civil Treatys;

protection of the privacy of individuals in the processing and dissemination of personal data and protection of confidentiality of individual records and accounts;

4) inconsistent with paragraphs 4 and 6 of this Protocol in the provision of national treatment, provided that the difference in actually provided treatment shall be aimed at ensuring the equitable or effective taxation or levy with persons of another member State in respect of trade in services;

5) inconsistent with paragraphs 4 and 7 of this Protocol, provided that the difference in treatment shall be the result of an Treaty on tax matters including Treatys on avoidance of double taxation to which the member State shall be a participant.

35. Nothing in this Protocol shall be construed as preventing the member States to take any measures it considers necessary to protect its vital interests in the defense or national security.

36. Member States shall ensure gradual reduction of exemptions and limitations specified in their individual national lists in Appendixes No. 1 and 2 to this Protocol.

37. Member States shall cease use of the measures specified in their individual national lists in Appendixes No. 1 and 2 to this Protocol in respect of those financial services sectors in which member States were the conditions of legislative harmonization and mutual recognition of licenses.

APPENDIX 1  
to the Protocol of Financial Services

LIST  
of Subsectors of Financial Services in which Member States  
in accordance with Paragraph 3 of the Protocol of Financial Services (ANNEX No. 17  
to the Treaty on the Eurasian Economic Union) and National Treatment  
and Commitments shall be granted in accordance with Paragraph 9 of the Protocol

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
I. REPUBLIC OF BELARUS				
1. Insurance against risks associated with: international maritime transportation	No limitations	–	–	–

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
international commercial air transportation international commercial space launches				
international insurance which covers fully or partially: international transportation of individuals international transportation of export (import) goods and the carrying vehicles				



Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
<p>including liability arising out of this international carriage of goods by transport responsibility for transboundary movements of individual vehicles only after joining the international Treaty system and insurance certificates "Green Card"</p>				
2. Reinsurance and	No limitations	—	—	—

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
retrocession				
3. Services of insurance agents and insurance brokers	limitation	not permitted the insurance intermediary associated with formation and distribution of insurance Treatys on behalf of foreign insurers in the territory of the Republic of Belarus (with the exception of the sectors listed in paragraph 1 of this list, and except for the implementation of insurance brokers brokering reinsurance)	Republic of Belarus Republic of Belarus Presidential Decree dated August 25, 2006 No. 530 "On insurance activity"	—
4. Ancillary insurance services including	No limitations	—	—	—

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
consulting and actuarial services, risk assessment and claim settlement services				
1. Insurance against risks associated with: international maritime transportation international commercial air transportation international commercial space launches  international insurance	limitation	<p>II. REPUBLIC OF KAZAKHSTAN</p> <p>there shall be no limitations, except for the following case:</p> <p>Insurance of located in the territory of the Republic of Kazakhstan property interests of the juridical person or its separate subdivisions and property interests of an individual person resident in the Republic of Kazakhstan, shall be exercised only by the insurance organization -</p>	<p>Law of the Republic of Kazakhstan dated December 18, 2000 No. 126-II "On insurance activity"</p>	notdetermine d

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
<p>which covers fully or partially: international transportation of individuals international transportation of export (import) goods and the carrying vehicles including liability arising out of this international carriage of goods by transport responsibility for transboundary</p>		<p>resident of the Republic of Kazakhstan.</p> <p>It shall be forbidden to make payments and money transfers related to the payment of insurance premiums (contributions) to non-residents of the Republic of Kazakhstan from individuals and juridical persons - residents of the Republic of Kazakhstan.</p> <p>Compulsory insurance Treatys shall be on their own insurers hold Kazakhstan residents</p>		

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
<p>movements of individual vehicles only after joining the international Treaty system and insurance certificates "Green Card"</p>				
<p>2. Reinsurance and retrocession</p>	<p>limitation</p>	<p>aggregate amount of assurance premiums, accrued to reinsurance organizations to non-residents of the Republic of Kazakhstan on the current reinsurance Treatys net commissions accrued receivable</p>	<p>Resolution of the Management Board of the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial</p>	<p>notdetermine d</p>

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
		<p>from ceding them (the assignor) shall not exceed 60% (since joining the WTO - 85%) of the total amount of insurance premiums, accrued income on insurance (reinsurance).</p> <p>Compulsory insurance Treatys shall be on their own insurers hold or transferred to reinsurance ceded to reinsurers - residents of the Republic of Kazakhstan</p>	<p>Market and Financial Organizations dated August 22, 2008 No. 131 "On Approval of the instruction on normative values and method of calculation of prudential norms of insurance (reinsurance) organization, forms and deadlines for submission of reports on the implementation of prudential norms"</p>	
3. Services of insurance	limitation	there shall be no limitations, except	Law of the Republic of	notdetermine

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
agents and insurance brokers		<p>for the following case:</p> <p>intermediary activity on the conclusion of the insurance Treaty on behalf of the insurance company - a non-resident of the Republic of Kazakhstan, except for a Treaty of insurance of civil liability of owners of vehicles traveling outside the Republic of Kazakhstan, in the territory of the Republic of Kazakhstan</p> <p>shall not be allowed if the international Treatys ratified by the Republic of</p>	<p>Kazakhstan dated December 18, 2000 No. 126-II “On insurance activity”</p>	<p>d</p>

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
		Kazakhstan, otherwise shall not be provided		
4. Ancillary insurance services including consulting and actuarial services, risk assessment and claim settlement services	No limitations	—	—	—
		III. RUSSIAN FEDERATION		
1. Insurance against risks associated with: international maritime transportation international commercial air transportation	No limitations	—	—	—



Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
international commercial space launches				
international insurance which covers fully or partially: international transportation of individuals international transportation of export (import) goods and the carrying vehicles including liability arising out of this				

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
international carriage of goods by transport responsibility for transboundary movements of individual vehicles only after joining the international Treaty system and insurance certificates "Green Card"				
2. Reinsurance and retrocession	No limitations	-	-	-

Sector (subsector)	Limitations availability	Description of limitations	Grounding for Appendix of limitations (normative legal act)	Validity of limitations
3. Services of insurance agents and insurance brokers	limitation	not permitted insurance intermediary associated with the formation and distribution of insurance Treatys on behalf of foreign insurers in the Russian Federation (with the exception of the sectors listed in paragraph 1 of this list)	Law of the Russian Federation dated November 27, 1992 No. 4015-I "On organization of insurance business in the Russian Federation"	—
4. Ancillary insurance services including consulting and actuarial services, risk assessment and claim settlement services	nolimitations	—	—	—

APPENDIX 2  
to the Protocol of Financial Services

LIST  
of Retained by Member States Limitations on the Establishment and (or) Activity

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
I. REPUBLIC OF BELARUS			
1. Limitation on paragraphs 6 and 9 of the Protocol on financial services (appendix No. 17 to the Treaty on the	if the quota of foreign investors in the authorized capital of Belarus Insurance exceeds 30%, the Ministry of Finance of the Republic of Belarus terminate registration of insurance companies with foreign investments and (or) the issuance of licenses to such organizations to engage in insurance activities	Republic of Belarus Presidential Decree dated August 25, 2006 No. 530 "On insurance activity", the Council of Ministers of the Republic of Belarus dated	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
Eurasian Economic Union) (hereinafter - appendix No. 17)	<p>insurance company shall obtain prior permission from the Ministry of Finance of the Republic of Belarus to increase the size of its statutory fund by foreign investors, and (or) insurance companies shall be subsidiaries (affiliates) business entities with respect to these foreign investors for the alienation of shares in its authorized capital (shares) constituting 5% and more of the authorized fund of the insurance organization, alienation of shares in its</p>	<p>September 11, 2006 No. 1174 "On establishing the quota of foreign investors in the statutory funds of insurance companies of the Republic of Belarus"            Republic of Belarus            Presidential Decree dated August 25, 2006 No. 530            "On insurance activity"</p>	

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>authorized capital (shares) in favor of foreign investors, and (or) insurance companies shall be subsidiaries (affiliates) for business entities relation to these foreign investors.</p> <p>Belarusian participants of the insurance organizations of the Republic of Belarus shall be required to obtain prior authorization from the Ministry of Finance to alienate their shares in the statutory funds (shares) ownership (economic management, operational management) and foreign investors (or) insurance companies which shall be subsidiaries (affiliates) business entities with respect to these foreign investors.</p> <p>Prior authorization shall be refused in the following cases: on execution of the action quota of foreign capital in the authorized capital of the insurance companies of the</p>		

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>Republic of Belarus shall be exceeded</p> <p>juridical person to which the insurer, the insurer party intends to alienate his shares in the authorized capital (shares), operates at least 3 years and has no profit for the implementation of its activities in recent 3 years there shall be a need to ensure national security of the Republic of Belarus (including the economic sphere), to protect the interests of national insurance organizations insurance companies which shall be subsidiaries (affiliates) business entities with respect to foreign investors, and (or) having a share of foreign investors in their statutory funds of more than 49%, can create separate divisions in the territory of the Republic of Belarus, as well as be the founders (participants) of other insurance organizations prior permission from the</p>	<p>Republic of Belarus          Presidential Decree dated          August 25, 2006 No. 530          "On insurance activity"</p> <p>Republic of Belarus          Presidential Decree dated          August 25, 2006 No. 530          "On insurance activity"</p>	

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>Ministry of Finance of the Republic of Belarus. In prior authorization shall be refused if the quota shall be exceeded the participation of foreign capital in insurance companies of the Republic of Belarus insurance companies that shall be subsidiaries or related companies against foreign investors shall not exercise in the Republic of Belarus life insurance (except life insurance Treatys with individuals), compulsory insurance (including compulsory state insurance), property insurance related the implementation of the supply and provision of services or performance of work for state needs, as well as insurance of property interests of the Republic of Belarus and its administrative-territorial units.</p>		



Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	Payment by foreign investors stakes in (shares) of insurance companies and insurance brokers made exclusively in cash		
2. Limitation on items 6 and 9 appendix No. 17	insurance agents, insurance brokers shall be the only Belarusian	Republic of Belarus Presidential Decree dated August 25, 2006 No. 530 "On insurance activity"	Not determined
3. Limitation under paragraph 6 appendix No. 17	<p>participation of foreign capital in the banking system of the Republic of Belarus shall be limited to 50%.</p> <p>Creation of credit institutions with foreign investment requires prior permission from the National Bank of Belarus. National Bank of Belarus stops state registration of banks with foreign investments at a fixed limit (quota)</p>	<p>Banking Code of the Republic of Belarus dated October 25, 2000 No. 441-W,</p> <p>Board of the National Bank of Belarus dated September 1, 2008 No. 129 "On the</p>	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>of foreign capital in the banking system of the Republic of Belarus.</p> <p>National Bank of Belarus has the right to take any action to enforce this limitation. When considering a permit into account the level of use quotas of foreign capital in the banking system of the Republic of Belarus, as well as the financial position and business reputation of the founders of non-resident</p>	<p>size (quota) of foreign capital in the banking system of the Republic of Belarus"</p>	
4. Limitation on items 6 and 9 appendix No. 17	License to operate in the financial services sector in the Republic of Belarus issued by juridical persons of the Republic of Belarus, established in the legal form under the law of the Republic of Belarus	Banking Code of the Republic of Belarus dated October 25, 2000 No. 441-W	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
5. Limitation under paragraph 10 appendix No. 17	Functions of a leader, his deputies, chief accountant of the insurance organization can be performed only by citizens of the Republic of Belarus, as well as foreign nationals and stateless persons permanently residing in the Republic of Belarus, and only on the basis of employment Treatys	Republic of Belarus Presidential Decree dated August 25, 2006 No. 530 "On insurance activity"	Not determined
6. Limitation under paragraph 6 appendix No. 17	activities, over which a license shall be required, can be carried out only by juridical persons of the Republic of Belarus or individual entrepreneurs registered in the prescribed manner in the Republic of Belarus.  Activities subject to licensing shall be determined in accordance with the legislation of the Republic of Belarus	Republic of Belarus Presidential Decree dated September 1, 2010 No. 450 "Regulations on Licensing Certain Types of Activities"	Not determined

## II. REPUBLIC OF KAZAKHSTAN

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
1. Limitation under paragraph 9 appendix No. 17	share of the authorized body in the capital of the auction organizer shall be more than 50% of the total voting shares of the auction organizer	Law of the Republic of Kazakhstan dated July 2, 2003 No. 461-II "On securities market"	Not determined
2. Limitation under paragraph 9 appendix No. 17	activities, over which a license shall be required, can be carried out only by juridical persons or individual entrepreneurs of the Republic of Kazakhstan. Activities subject to licensing the Republic of Kazakhstan shall be determined in accordance with the legislation of the Republic of Kazakhstan	Law of the Republic of Kazakhstan dated January 11, 2007 No. 214-III "On Licensing"	Not determined
3. Limitation under paragraph 9 appendix No. 17	banks shall be established in the form of joint stock companies	Law of the Republic of Kazakhstan dated August 31, 1995 No. 2444 "On Banks and Banking	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
4. Limitation under paragraph 6 appendix No. 17	opening of branches of non-resident banks in the Republic of Kazakhstan shall be prohibited	Activities in the Republic of Kazakhstan" Law of the Republic of Kazakhstan dated August 31, 1995 No. 2444 "On Banks and Banking Activities in the Republic of Kazakhstan"	Not determined
5. Limitation under paragraph 9 appendix No. 17	insurance (reinsurance) organization shall be established as a joint stock company	Law of the Republic of Kazakhstan dated December 18, 2000 No. 126-II "On insurance activity"	Not determined
6. Limitation under paragraph 6	opening of branches of insurance non-resident companies in the Republic of Kazakhstan shall be prohibited	Law of the Republic of Kazakhstan dated	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
appendix No. 17		December 18, 2000 No. 126-II "On insurance activity"	
7. Limitation under paragraph 9 appendix No. 17	the legal form of an insurance broker shall be a limited liability partnership, or corporation	Law of the Republic of Kazakhstan dated December 18, 2000 No. 126-II "On insurance activity"	Not determined
8. Limitation under paragraph 9 appendix No. 17	voluntary pension savings fund shall be established in the form of a joint stock company	Law of the Republic of Kazakhstan dated 21 June 2013 No. 105-V "On pension system in the Republic of Kazakhstan"	Not determined
9. Limitation under paragraph 6	opening of branches and representative offices of accumulative pension funds - non-residents of the	Law of the Republic of Kazakhstan dated June 21,	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
appendix No. 17	Republic of Kazakhstan in the Republic of Kazakhstan shall be prohibited	2013 No. 105-V "On pension system in the Republic of Kazakhstan"	
10. Limitation under paragraph 9 appendix No. 17	Central Depository shall be the only organization in the Republic of Kazakhstan, carrying out depository activities. Central Depository shall be established in the form of a joint stock company	Law of the Republic of Kazakhstan dated July 2, 2003 No. 461-II "On securities market"	Not determined
11. Limitation under paragraph 9 appendix No. 17	professional participant of stock market shall be a juridical person established in the legal form of the joint stock company (except for the transfer agent)	Law of the Republic of Kazakhstan dated July 2, 2003 No. 461-II "On securities market"	Not determined
12. Limitation under paragraph 9 appendix No. 17	Bourse - a juridical person established in the legal form of a joint stock company	Law of the Republic of Kazakhstan dated July 2, 2003 No. 461-II «On securities market"	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
13. Limitation under paragraph 9 appendix No. 17	a bank holding company - a non-resident of the Republic of Kazakhstan which directly owns 25% or more of the outstanding (less preferred and purchased by the bank) shares of the bank or having the opportunity to vote directly 25% or more of the voting shares of the bank, shall be only a financial institution - a non-resident of the Republic of Kazakhstan, subject to consolidated supervision in their country of location	Law of the Republic of Kazakhstan dated August 31, 1995 No. 2444 "On Banks and Banking Activities in the Republic of Kazakhstan"	Not determined
14. Limitation under paragraph 9 appendix No. 17	single Pension accumulating fund shall be the only organization in the Republic of Kazakhstan, carrying out activities to raise compulsory pension contributions, mandatory occupational pension contributions	Law of the Republic of Kazakhstan dated June 21, 2013 No. 105-V "On pension system in the Republic of Kazakhstan"	Not determined



Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
15. Limitation under paragraph 9 appendix No. 17	single receptionist shall be the only organization in the Republic of Kazakhstan which carry out the activity on keeping the register of holders of stocks	Law of the Republic of Kazakhstan dated July 2, 2003	Not determined
16. Limitation under paragraph 9 appendix No. 17	insurance holding company - a non-resident of the Republic of Kazakhstan which directly owns 25% or more of outstanding (net of treasury and preferred insurance (reinsurance) organization) shares of the insurance (reinsurance) organization or have the opportunity to vote directly 25% or more of the voting shares of the insurance (reinsurance) organization can be the only financial institution	Law of the Republic of Kazakhstan dated December 18, 2000 No. 126-II "On insurance activity"	Not determined
17. Limitation under	Insurance Indemnity Guarantee Fund shall be the only	Law of the Republic of	Not

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
paragraph 9 appendix No. 17	organization in the Republic of Kazakhstan guaranteeing insurance payments to policyholders (insured, beneficiaries) under forced liquidation of insurance companies by mandatory insurance Treatys	Kazakhstan dated June 3, 2003 No. 423-II "On the Insurance Indemnity Guarantee Fund"	determined
18. Limitation under paragraph 9 appendix No. 17	organization conducting the mandatory deposit insurance shall be a nonprofit organization created in the legal form of a joint stock company. Founder (the sole shareholder of the organization), fulfilling the mandatory deposit insurance shall be the authorized body	Law of the Republic of Kazakhstan dated July 7, 2006 No. 169-III "On mandatory insurance of deposits placed in banks of the Republic of Kazakhstan"	Not determined
19. Limitation under paragraph 9 appendix No. 17	credit bureau with state participation shall be the only specialized non-profit organization established in the legal form of a joint stock company in which suppliers provide	Law of the Republic of Kazakhstan dated July 6, 2004 No. 573-II "On credit	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	the information necessary for the formation of credit histories in the mandatory form	bureaus and formation of credit histories in the Republic of Kazakhstan”	
20. Limitation under paragraph 9 appendix No. 17	formation and maintenance of a database on insurance Treatys shall be carried by a non-profit organization established in the legal form of a joint stock company with state participation	Law of the Republic of Kazakhstan dated December 18, 2000 No. 126-II “On insurance activity”	Not determined
1. Limitation on items 6 (concerning the establishment and operation) and 10 appendix No. 17	<p style="text-align: center;">III. RUSSIAN FEDERATION</p> insurance companies which shall be subsidiaries with respect to foreign investors (the main organizations) or having a share of foreign investors in its authorized capital of more than 49%, shall not carry out in the Russian Federation life insurance, health and property of citizens at the expense of funds allocated for this purpose from	Federal Law dated November 27, 1992 No. 4015-I “On organization of insurance business in the Russian Federation”	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>corresponding budget federal of executive bodies (policyholders), insurance related to the procurement of goods, works and services for state and municipal needs, as well as insurance of property interests of state organizations and community organizations.</p> <p>Insurance companies which shall be subsidiaries with respect to foreign investors (the main organizations) or having a share of foreign investors in its authorized capital of over 51%, also shall not carry out in the Russian Federation insurance of property interests related to survival of citizens to certain age or term or offensive other events in the life of citizens, and to their death, and mandatory insurance of civil liability of vehicle owners.</p> <p>Insurance organization which shall be a subsidiary of a foreign investor (the main organization) or having the</p>		

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>share of foreign investors in its authorized capital of more than 49%, has a right to conduct insurance activities in the Russian Federation, if the foreign investor (main business) shall not be less than 5 years shall be an insurance organization carrying out its activities in accordance with the legislation of the State.</p> <p>Legislation of the Russian Federation identified the limit size (quota) of foreign capital in the authorized capital of insurance companies equal to 50%. Information about the size (quota) of foreign capital of insurance companies, the introduction or termination provided the fifth and seventh paragraphs of this paragraph, limitations on foreign investment shall be published in the manner prescribed by the legislation of the Russian Federation.</p> <p>If the size (quota) of foreign capital in the authorized</p>		

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>capital of insurance companies exceeds 50%, the supervisory authority stops issuing licenses to conduct insurance business insurance companies being subsidiaries in relation to foreign investors (the main organizations) or having a share of foreign investors in its authorized capital of more than 49%.</p> <p>Insurance organization shall obtain prior permission supervisory authority to increase the size of its share capital by foreign investors and (or) their subsidiaries, alienation in favor of foreign investors (including foreign investors to buy) shares (shares in authorized capital) and Russian shareholders (participants) shall be required to obtain prior authorization from the supervisory authority to alienate their shares (stakes in) insurance company in favor of foreign investors and (or) its subsidiaries.</p>		

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	<p>If the identified size (quota) of foreign capital in the authorized capital of insurance companies shall be exceeded, the supervisory authority refuses to prior authorization to insurance companies being subsidiaries in relation to foreign investors (host institution) or having a share of foreign investors in its authorized capital of more than 49 % or becoming established as a result of such transactions.</p> <p>Payment by foreign investors of their shares (stakes in) insurance organizations made exclusively in cash in the currency of the Russian Federation.</p> <p>Notwithstanding the provisions of this paragraph, insurance companies licensed to conduct insurance business to Russia's accession to the WTO shall continue to implement these activities in accordance with the terms</p>		

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	on which the license was issued		
2. Limitation on items 6 (for institutions), 10 and 11 of Appendix No. 17	insurance agents, insurance brokers shall be the only citizens of the Russian Federation	Federal Law dated November 27, 1992 No. 4015-I "On organization of insurance business in the Russian Federation"	Not determined
3. Limitation under paragraph 6 (in respect of the establishment and operation) appendixNo. 17	<p>participation of foreign capital in the Russian banking system shall be limited to 50%.</p> <p>For the purposes of monitoring the quota of foreign participation in the banking system of the Russian Federation the prior permission of the Central Bank shall be required for:</p> <p>establishment of credit institutions with foreign participation including subsidiaries and affiliates</p>	<p>International obligations of the Russian Federation regarding the services and by the Protocol dated 16 December 2011 on the Accession of the Russian Federation to the Marrakesh Treaty Establishing the</p>	Not determined



Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	increase the authorized capital of the credit institution at the expense of non-resident (non-residents) alienation of shares (stakes) in a credit institution in favor of non-residents	World Trade Organization on April 15, 1994	
4. Limitation on items 6 and 11 of Appendix No. 17	License to operate in the financial services industry in the Russian Federation issued to juridical persons of the Russian Federation, established in the legal form stated by the legislation of the Russian Federation	Federal Law dated December 1, 1990 No. 395-I "On banks and banking activity", Federal Law dated April 22, 1996 No. 39-FZ "On the Securities Market", Federal Law dated November 27, 1992 No. 4015 - I "On organization	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
		<p>of insurance business in the Russian Federation”,  Federal Law dated February 7, 2011 No. 7-FZ "On clearing and clearing activities",  Federal Law dated November 21, 2011 No. 325-FZ "On the organized trading",  Federal Law dated Shall 7, 1998 No. 75-FZ "On state pension funds",  Federal Law dated November 29, 2001 No.</p>	

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
5. Limitation under paragraph 11 appendix No. 17	in respect of credit institutions with foreign investment there shall be limitations in the following cases: if the person performing the functions of the sole executive body of the Russian credit organization shall be a foreign national or a stateless person, the collegial executive body of such credit institution shall not be less than 50% should be formed of citizens of the Russian Federation.	156-FZ "On Investment Funds" Federal Law dated March 14, 2013 No. 29-FZ "On Amending Certain Legislative Acts of the Russian Federation " Order of the Bank of Russia dated April 23, 1997 No. 02-195 "On introduction in operation of the Regulation "On peculiarities registration of credit organizations with foreign investments and the order	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	A number of employees who shall be citizens of the Russian Federation shall not be less than 75% of the total number of employees of the Russian credit organizations with foreign investments	prior approval of the Bank of Russia on the increase in the authorized capital of the credit organization registered at the expense of non-residents”	
6. Limitation under paragraph 11 appendix No. 17	A number of foreign personnel office of a foreign credit institution, as a rule, should not exceed 2 persons. If representation requires more accredited staff need this should be justified in a written statement addressed to the President of the Bank of Russia on the basis of which a decision shall be made	Order of the Bank of Russia dated October 7, 1997 No. 02-437 “On the procedure of opening and working in the Russian Federation of foreign credit institutions”	Not determined
7. Limitation on items 6 and 11 of the appendixNo. 17	executives (including sole executive body) and the chief accountant of the subject of the Russian insurance business (juridical person) shall be resident in the territory	Law of the Russian Federation dated November 27, 1992 No. 4015-I “On	Up to January 1, 2015

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
	of the Russian Federation	organization of insurance business in the Russian Federation”	
8. Limit paragraphs 6 and 11 of Appendix No. 17	activities, over which a license shall be required, can be carried out only by juridical persons of the Russian Federation or individual entrepreneurs registered in the prescribed manner in the Russian Federation. Activities subject to licensing, determined in accordance with the legislation of the Russian Federation	Federal law dated August 8, 2001 No. 128-FZ "On licensing certain types of activities" (and the legislation governing the activities listed in paragraph 2 of Article 1 of the Federal Act), Federal Law dated December 1, 1990 No. 395-I "On Banks and Banking	Not determined

Limitations availability	Description of limitations	Basis for Appendix of limitations (normative legal act)	Validity of limitations
9. Limitation on items 6 and 11 of the appendixNo. 17	the share of each shareholder (related group of persons) in the share capital organizer of trade shall not exceed 10%, except in cases where the shareholder (related group of persons) shall be the competent authority or financial market infrastructure organizations of the Russian Federation, members of the same holding group	Activity"	Not determined
10. Limitation on items 6 and 11 of the appendixNo. 17	maintain insurance records in the Russian Federation shall be the only organization being established and operates in accordance with the legislation of the Russian Federation	_____	Not determined
11. Limitation on items 6 and 11 of the appendixNo. 17	organization received the status of a central depository, shall be the only organization in the Russian Federation, functioning as a central depository Central Depository shall be established in the form of a joint stock company	Federal Law dated December 7, 2011 No. 414-FZ "On the Central Depository"	Not determined



## PROTOCOL

on the Procedure of Levying Indirect Taxes and the Mechanism of Control Over their Payment while Exporting and Importing Goods, Performing Works, Rendering Services

### I. General provisions

1. This Protocol is developed in accordance with Articles 71 and 72 of the Treaty on Eurasian Economic Union and provides for the procedure of levying indirect taxes and the mechanism of control over their payment while exporting and importing goods, performing works, rendering services.

2. The terms used in this Protocol shall mean the following:

«auditing services» – services for conducting an audit of business accounting, tax and financial reporting;

«accounting services» – services for the registration, keeping, restoration of accounting, for the preparation and (or) the submission of tax, financial and accounting reporting;

«movable property» – things that do not relate to immovable property and the vehicles;

«design services» – services for designing artistic forms, appearance of products, building facades, interior space, an artistic design;

«import of goods» – import of goods by taxpayers (payers) to the territory of one member State from the territory of another member State;

«engineering services» – engineering and consulting services for the preparation of the production and sale of goods (works, services), preparation of construction and operation of industrial, infrastructure, agricultural and other objects, as well as pre- and



design services (preparation of technical and economic basis studies, design development, technical testing and analysis of their results);

«competent authorities» – ministries of finance and economy, tax and customs authorities of member States;

«consulting services» – services for providing explanations, recommendations and other forms of consultations, including the identification and (or) an assessment of problems and (or) capabilities of person on managerial, economic, financial (including tax and accounting) issues, as well as issues on planning, organizing and operating of business activity, human resource management;

«indirect taxes» – value added tax (hereinafter - VAT) and excise taxes (excise tax and excise duty);

«marketing services» – services related to research, analysis, planning and forecasting in the sphere of production and circulation of goods (works, services) in order to identify measures to create the necessary economic conditions of production and circulation of goods (works, services), including the description of goods (works, services), development of pricing strategy and strategy of advertisement;

«taxpayer (payer)» – taxpayer (payer) of taxes, fees and duties of member State (hereinafter - taxpayer);

«research and development works» – conducting research works subject to technical specification of the customer;

«immovable property» – land plots, subsoil plots, isolated bodies of water and all that is inseparable from land, i.e. objects, movement of which without disproportionate damage to their appointment is not possible, including forests, perennial plantings, buildings, constructions, pipelines, power lines, enterprises as property complexes and space objects;

«zero rate of VAT» – levying the VAT at a rate of zero percent with the right for refund (reimbursement) of the relevant VAT sums;

«development and technological work» – development of new products' model, design documentation for it or new technology;

«work» – an activity results of which are expressed in material form that can be sold in order to satisfy the needs of legal and (or) natural persons;

«advertising services» – services for the creation, distribution and display of information aimed for unspecified persons and designed to generate or maintain interest in legal and natural persons, goods, trademarks, works, services, by any means and in any form;

«goods» – any movable and immovable property, vehicles sold and intended for sale, all kinds of energy;

«vehicles» – air and sea vessels, inland navigation vessels, combined (river-sea) vessels, units of railway rolling stock; buses, vehicles, including trailers and semi-trailers; cargo containers, quarry lorries;

«service» – an activity results of which are expressed in non-material form that are sold and consumed in the process of this activity, as well as transfer, provision of patents, licenses, trademarks, copyrights and other rights;

«information processing services» – services for the collection and collation of information, classification of information files (data) and providing users the results of the information processing;

«export of goods» – export of goods sold by taxpayers from the territory of one member State to the territory of another member State;

«legal services» – services of legal nature, including advising and providing clarification, preparation and examination of documents, representation of clients in the courts.

## II. Procedure on Application of Indirect Taxes upon Exportation of Goods

3. Upon exportation of goods from the territory of one member State to the territory of another member State by taxpayer of the member State from whose territory goods are exported, a zero rate of VAT and (or) the exemption from payment of excise taxes shall be applied provided in paragraph 4 of this Protocol are submitted to the tax authority .

Upon exportation of goods from the territory of one member State to the territory of another member State, the taxpayer has a right for a tax deductions (credit) in a manner, that is similar to those established in the legislation of the member State and applied for goods exported from the territory this member State outside of the EAEU.

Point of sale of goods shall be determined in accordance with the legislation of member States, if otherwise is not provided by this paragraph.

In case of sale of goods by the taxpayer of one member State to the taxpayer of another member State, when the shipment (transportation) of goods has began outside of the EAEU and finished in the territory of another member State, a territory of the member State, where the goods are placed under the customs procedure of release for domestic consumption shall be recognized as the point of sale of goods member State.

4. To confirm the validity of applying a zero rate VAT and (or) the exemption from payment of excise tax the taxpayer of the member State, from whose territory the goods were exported, along with the tax declaration shall submit the following documents (their copies) to the tax authorities:

1) agreements (contracts), concluded with a taxpayer of another member State or with taxpayer of state, which is not a Member of the EAEU (hereinafter - agreements (contracts)) under which the goods are exported, in case of a lease of goods or trade credit (trade loan, loan in the form of things) - leasing agreements (contracts), agreements (contracts) on trade credits (commercial loans, loan in the form of things), agreements (contracts) for the manufacturing of goods; agreements (contracts) for the processing of raw material supplied by the customer ;

2) bank statements confirming the real receipt of proceeds from the sale of exported goods to the account of the taxpayer-exporter, unless otherwise is provided by the legislation of the member State.

If the agreement (contract) provides cash payment, and this payment does not contradict the legislation of the member State, from whose territory the goods are exported, the taxpayer shall submit the bank statement (a copy of the statement) to the tax authority, confirming the payment of the amounts received by the taxpayer to his bank account, as

well as copies of cash receipt vouchers, confirming the real receipt of proceeds from the buyer of these goods, unless otherwise is provided by the legislation of the member State from the territory of which the goods are exported.

In case of export of goods under the leasing agreement (contract), providing the transition of property right in relation to goods to the lessee, the taxpayer shall submit to the tax authority the bank statement (copy of statement), confirming the real receipt of lease payment (in the part of refund of the original value of the goods (leased assets) to the account of taxpayer-exporter, unless otherwise is provided by the legislation of the member State.

In the case of foreign trade goods exchange (barter) operations, provision of trade credits (trade loans, the loan in the form of things) a taxpayer-exporter shall submit to the tax authority documents, confirming the import of goods (performing of works, rendering services) received (purchased) by him under these transactions.

Documents, listed in this subparagraph, shall not be submitted to the tax authority, if their submission is not provided by the legislation of member State in regard to goods exported from the territory of member State outside of the EAEU;

3) statement on import of goods and payment of indirect taxes made in accordance with a form, provided by separate international interagency agreement, marked by the tax authority of the member State, on whose territory the goods were imported, on payment of indirect taxes (exemption or in other manner of the tax liabilities execution) (hereinafter - application) (in the original hard copy or in copy at the discretion of tax authorities of member States) or list of applications (in the original hard copy or an electronic copy with electronic (electronic and digital) signature of taxpayer).

Taxpayer shall include in the list of applications reference details and details from the applications, information on which were submitted to tax authority in the form, provided by the separate international interagency agreement.

The form of list of application, the procedure of filling it and format shall be defined by the legal acts of tax authorities of member States or by other legal acts of member State.

In case of sale of goods, imported from the territory of one member State to the territory of another member State, and their placement under the customs procedure of free customs zone or free warehouse in the territory of this another member State, instead of application to the tax authorities of the first member State a copy of customs declaration certified by the customs authorities of other member State, in accordance with which such goods were placed under the customs procedure of free customs zone and free warehouses, shall be submitted,;

4) transportation (shipping) and (or) other documents provided by the legislation of member States, confirming the movement of goods from the territory of one member State to the territory of another member State. These documents shall not be submitted, if for the certain types of movement of goods, including the movement of goods without using vehicles, preparation of documents is not provided by the legislation of member State;

5) other documents confirming the validity of applying zero rate VAT (or) exemption from payment of excise taxes provided by the legislation of the member State, from whose territory the goods are exported.

The documents provided by this paragraph, except for application (list of applications), shall not be submitted to the tax authority, if the non-provision of documents confirming the validity of applying zero rate VAT and (or) the exemption from excise taxes, along with the tax declaration follows from the legislation of member State from whose territory the goods are exported.

The documents provided in this paragraph shall not be submitted with the relevant tax declaration on excise taxes, if they were submitted with the tax declaration on VAT, unless otherwise is provided by the legislation of member State.

Documents, provided by subparagraphs 1, 2, 4, 5 and the forth paragraph of subparagraph 3 of this paragraph, could be submitted in electronic form in the order stipulated by the legal acts of tax authorities of member States or other legal acts of member States. The format of these documents shall be defined by the tax authorities of member States or by the other legal acts of member States.

5. The documents provided in paragraph 4 of this Protocol shall be submitted to the tax authority within 180 calendar days from the date of shipment (transfer) of goods.

If these documents are not submitted within the prescribed period the sums of indirect taxes shall be paid to the budget for the tax (reporting) period, which covers the date of shipment of goods, or other tax (reporting) period established by the legislation of member State, with the right of deduction (credit) of the respective sums of VAT in accordance with the legislation of the member State from the territory of which the goods are exported.

In order to calculate VAT on the sale of goods the date of shipment shall be the date of the first primary accounting (calculating) document issued for the buyer of goods (the first carrier), or the date of issue of another binding document provided by the legislation of member State for the taxpayer of VAT.

In order to calculate excise taxes on excisable goods produced from own raw materials supplied by the customer, the date of shipment of goods shall be the date of the first time formation of the primary accounting (calculating) document, issued for the buyer (receiver) of goods; on excisable goods produced from provided raw materials supplied by the customer the date of shipment shall be the date of signing of the statement of acceptance of excisable goods, unless otherwise is provided by the legislation of member State, in the territory of which the excisable goods are produced.

In the case of non-payment, partial payment of indirect taxes, the payment of such taxes with the violation of the time period, established by this paragraph, the tax authority shall levy indirect taxes and penalties in a manner and amount, provided by the legislation of member State, from whose territory the goods are exported, as well as apply measures for fulfillment of obligations on payment of indirect taxes, penalties and liabilities, established by the legislation of this member State.

In case the taxpayer has provided documents prescribed in paragraph 4 of this Protocol once the period specified in this paragraph expired, the paid sums of indirect taxes shall be subject to deduction (credit), return in accordance with the legislation of the member

State from the territory of which the goods were exported. The amounts of fines, penalties, paid for delay in payment of indirect taxes, shall not be refundable.

6. The volume of goods, excise tax rates that are in force at the date of shipment of excisable goods exported to the member State, as well as the amount of excise taxes, shall be recorded in the appropriate tax declaration on excise taxes.

7. Tax authority shall verify the validity of applying zero rate of VAT and (or) the exemption from excise taxes, tax deductions (credits) for this tax, and take (make) a decision under the legislation of the member State from the territory of which the goods were exported.

In case of non-provision of the application to the tax authority, the tax authority has a right to take (make) a decision on confirmation of the validity of applying zero rate VAT and (or) the exemption from excise taxes, tax deductions (credits) for such taxes in respect of transactions on the sale of goods exported from the territory of one member State into another member State, upon availability of confirmation in electronic form of the fact of payment of indirect taxes in full (exemption from the payment of indirect taxes) in the tax authority of member State from the tax authority of another member State.

8. If data on the movement of goods and payment of indirect taxes provided by taxpayer does not correspond to the data obtained in the framework of exchange of information, established between the tax authorities of member States, the tax authority shall recover indirect taxes and penalties in the manner and amount provided by the legislation of the member State, from whose territory the goods are exported, as well as apply measures of enforcement of obligations on fulfillment on payment of indirect taxes, penalties and liabilities established by the legislation of this member State.

9. The provisions of this Section in the part of VAT shall also be applied in respect of goods that are the result of work performed under the agreements (contracts) on their production, and being exported from the territory of the member State, on whose territory the works on their production were provided, to another member State territory.

The goods that are the result of the work on processing of provided raw materials supplied by the customer do not refer to the abovementioned goods.

10. The tax base for taxation of goods with excise taxes, that are the result of performing of works under the agreement (contract) on processing of provided raw materials supplied by the customer, is defined as the volume, quantity (other indicators) of excisable goods produced from provided raw material supplied by the customer, in natural value, in respect of which fixed (specific) excise tax rates are established, or as the value of excisable goods produced from provided raw material supplied by the customer, in respect of which ad valorem excise rates are established.

11. The tax base of VAT upon exportation of goods, when it is changed towards increasing (decreasing) because of increase (decrease) of prices of sold goods or decrease of quality (volume) of sold goods in the case of their return because of low quality and (or) packaging, shall be corrected in that tax period, when the parties of agreement (contract) change the price (agree the return conditions) of exported goods, if otherwise is not provided by legislation of member States.

Upon exportation of goods (the leased asset) from the territory of one member State to the territory of another member State under the leasing agreement (contract), prescribing transfer of ownership right on this goods to the lessee, under the agreement (contract) of trade credit (trade loan, loan in the form of things), under the agreement (contract) on the manufacture of goods, the zero rate of VAT and (or) the exemption from excise taxes (if such a transaction is subject to excise taxes in accordance with the legislation of the member State) shall be applied provided documents prescribed under paragraph 4 of this Protocol are submitted to the tax authority.

The tax base for VAT upon exportation from the territory of one member State to the territory of another member State of goods (leased assets) under the leasing agreement (contract) , providing transfer of ownership right on this goods to the lessee, shall be determined at the date provided by the agreement (contract) for each lease payment, in the amount of the initial cost of goods (leased assets), attributable to each lease payment.



Tax deductions (credits) shall be conducted in accordance with the legislation of the member State in part attributable to the cost of goods (leased asset) upon each lease payment .

The tax base for VAT when exporting goods from the territory of one member State to the territory of another member State under the agreement (contract) of trade credit (trade loan, loan in the form of things) shall be the cost of transferred (provided) goods, provided in the agreement (contract), in case of the absence of cost in the agreement (contract) – the cost specified in the shipping documents, in case of absence of the cost in the agreement (contract) and shipping documents - the cost of goods, as reflected in accounting.

12. To ensure completeness of payment of indirect taxes the legislation of member State governing the principles for determining the price for tax purposes can be applied.

### III. Procedure for Levying Indirect Taxes upon Importation of Goods

13. Collection of indirect taxes on goods imported to the territory of one of the member States from the territory of another member State, (unless otherwise is provided in paragraph 27 of this Protocol, and (or) placement of imported goods under the customs procedures of free customs zones and free warehouses) shall be carried out by the tax authority of the member State to the territory of which the goods are imported, at the place of registration of tax payers, who are the owners of goods, including taxpayers that apply special tax regimes, including taking into account the specifics provided by paragraphs 13.1-13.5 of this Protocol.

For the purposes of this section, the owner of the goods shall be the person who has the ownership right for the goods or to whom the ownership of the goods is transferred according to an agreement (contract).

13.1. If the goods are bought under the agreement (contract) between the taxpayer of one of the member State and the taxpayer of another member State, payment of indirect

taxes shall be carried out by the taxpayer of the member State, to whose territory these goods were imported, – by the owner of the goods or, if it is provided by the legislation of the member State, by the commission agent, attorney or agent.

13.2. If the goods are bought under the agreement (contract) between the taxpayer of one of the member State and the taxpayer of another member State and these goods are being imported from the territory of a third member State, the indirect taxes shall be paid by the taxpayer of the member State, to whose territory these goods were imported, – by the owner of these goods.

13.3. If the goods are being sold by the taxpayer of one member State through the commission agent, attorney or agent to the taxpayer of another member State and are being imported from the territory of a third member State, payment of indirect taxes shall be carried out by the taxpayer of the member State, to whose territory these goods are imported – by the owner of these goods, or, if it is provided by the legislation member State, by the commission agent, attorney or agent.

13.4. If the taxpayer of one member States purchases goods that were earlier imported to the territory of this member State by the taxpayer of another member State, and indirect taxes for these goods were not paid, payment of indirect taxes shall be carried out by the taxpayer of the member State, to whose territory these goods were imported, – by the owner of these goods, or, if it is provided by the legislation of member State, by the commission agent, attorney or agent (in case these goods will be sold through a commission agent, attorney, agent).

If taxpayer of one member State purchases goods, which were earlier imported to the territory of this member State by commission agent, attorney or agent (taxpayer of this member State) under the agreement (contract) of commission, agency and agent agreement (contract) with taxpayer of other member State, indirect taxes on which have not been paid, payment of indirect taxes shall be carried out by taxpayer of member State, to whose territory the goods were imported by owner of goods or if it is provided by the legislation of member State, by the commission agent, attorney or agent.

13.5. If the goods are being purchased under the agreement (contract) between the taxpayer of one member State and a taxpayer of State, which is not member State of the EAEU, and goods are imported from the territory of another member State, the indirect taxes shall be paid by the taxpayer of the member State, to whose territory these goods were imported, – by the owner of these goods or, if it is provided by the legislation of the member State, by the commission agent, attorney or agent (in case these goods will be sold through a commission agent, attorney, agent).

14. For the purposes of the VAT payment the tax base shall be determined on the date of the registration of imported goods by the taxpayer (but not later than the date which is set by the legislation of member State, in the territory of which these goods are imported) on the basis of the cost of purchased goods (including goods that are the result of the fulfillment of an agreement (the contract) on their manufacture), as well as goods received under an agreement (contract) on commercial loan (commercial loan, loan in the form of things), goods that are the product of processing of raw material supplied by the customer, and excise taxes payable on excisable goods.

The cost of the purchased goods (including goods that are the result of the performing of works under the agreement (the contract) on their manufacture) shall be the cost of transaction that is chargeable by the supplier for goods (works, services) under the terms of an agreement (contract).

The cost of goods received according to an agreement (contract) on exchange of goods (barter) and an agreement (contract) on trade loan (trade loan, loan in the form of things), shall be the cost of the goods provided according to an agreement (contract), if no cost stipulated in the agreement (contract) - the cost specified in the shipping documents, in the absence of the cost stipulated in the agreement (contract) and in shipping documents - the cost of goods, as reflected in accounting.

In order to determine the tax base, cost of goods (including goods which are outcome of performing works under agreement (contract) on their production) expressed in foreign currency shall be calculated in national currency at the exchange rate of national (central) bank of the member State for the date of acceptance of goods for accounting.

The tax base of goods upon importation of raw materials supplied by the customer to the territory of one member State from the territory of another member State shall be determined as a price of performed works on processing of raw materials supplied by the customer and excise taxes to be paid on excisable products of processing. The price of performed works on processing of raw materials supplied by the customer, expressed in foreign currency, shall be calculated in national currency at the exchange rate of national (central) bank of the member State for the date of acceptance of goods for accounting.

15. The tax base upon importation of goods (leased assets) to the territory of one member State from the territory of another member State under the agreement (contract) on leasing, which provides the transition of ownership right for these goods to the lessee, shall be defined as a part of cost of goods (leased assets), provided on the date of its payment by an agreement (contract) on leasing (regardless of the actual size and the date of payment). The lease payment in foreign currency shall be converted into national currency at an exchange rate of the central (national) bank of the member State on the date corresponding to the time (date) of the determination of the tax base.

16. The tax base for excise taxation shall be the volume, quantity (other indicators) of imported excisable goods, including goods which are products of processing of raw materials supplied by the customer in natural value, subject to fixed (specific) excise tax rates, or the cost of imported excisable goods, including the products of processing of raw materials supplied by the customer subject to ad valorem excise rates.

The tax base for calculating excise taxes shall be determined on the date of the registration of imported goods by the taxpayer, including the products of processing of raw materials supplied by the customer (but not later than the date which is set by the legislation of the member State, to whose territory these goods were imported).

17. The sums of indirect taxes subject to the payment on goods imported to the territory of one member State from the territory of another member State, shall be calculated by the taxpayer under the tax rates established by the legislation of member State, to whose territory these goods were imported.

18. To ensure the completeness of the payment of indirect taxes the legislation of member State which governs principles for determining the price for tax purposes can be applied.

19. Indirect taxes, excluding excise taxes on labeled excisable goods, shall be paid not later than the 20-th of the month following the month:

of registration of the imported goods;

of the payment period stipulated by an agreement (contract) on leasing.

Payment of excise taxes on labeled excisable goods shall be carried out in terms established by the legislation of the member State.

20. A taxpayer must submit to the tax authorities an appropriate tax declaration in the form established by the legislation of member State, or in the form approved by the competent authority of the member State, to whose territory goods were imported, including under leasing agreement (contract), not later than the 20-th of the month following the month of the registration of imported goods (the payment period, stipulated by an agreement (contract) for leasing). Along with the tax declaration the taxpayer shall submit to the tax authority the following documents:

1) an application in a hard copy (four copies) and electronic form or an application in electronic form with electronic (electronic digital) signature of taxpayer;

2) bank statement confirming the real payment of indirect taxes on imported goods, or other document confirming the fulfillment of tax obligations for the payment of indirect taxes, if it is provided by the legislation of the member State. If a taxpayer has overpaid (collected) taxes, fees or sums of indirect taxes that are refundable, both upon importation of goods to the territory of one member State from the territory of another member State and upon selling goods (works, services) in the territory of the member State, the tax authority in accordance with the legislation of the member State, to whose territory goods were imported, shall take (make) a decision on their deduction for repayment of indirect taxes on imported goods. In this case, the bank statement (its copy), confirming factual payment of indirect taxes on imported goods, shall not be submitted. Under the agreement (contract) on leasing documents specified in this

subparagraph shall be submitted on the maturity date which is specified in the agreement (contract) on leasing;

3) transport (shipping) and (or) other documents stipulated by the legislation of the member State, confirming the transportation of goods from the territory of one member State to the territory of another member State. These documents shall not be submitted when for certain types of transportation of goods, including the transportation of goods without using of vehicles, preparation of such documents is not provided by the legislation of the member State;

4) invoices drawn up in accordance with the legislation of the member State when shipping goods, if their invoicing (issuance) is provided by the legislation of the member State.

If invoicing (issuance of an invoice) is not provided by the legislation of member State or the goods are purchased from the taxpayer of member State, which is not a member State of the EAEU, other document (documents) issued by the by the seller and confirming the cost of imported goods shall be submitted to the tax authority instead of invoice;

5) agreements (contracts), on the basis of which goods imported to the territory of the member State from the territory of another member State, were purchased; in case of leasing of goods (goods leasing) - leasing agreements (contracts); in case of trade credit (trade loan, the loan in the form of things) - agreements (contracts) for trade loans (commercial loans, the loan in the form of things); agreements (contracts) on the manufacture of goods; agreements (contracts) on the processing of raw material supplied by the customer;

6) information message (in the cases stipulated in paragraphs 13.2-13.5 of this Protocol), submitted to the taxpayer of one member State by the taxpayer of another member State, or by a taxpayer of the country which is not the member State of the EAEU (signed by the head (individual entrepreneur) and duly stamped), selling goods imported from the territory of a third member State, on the following information about the taxpayer of the

third member State and on the agreement (contract) concluded with the taxpayer of that third country on the purchase of imported goods:

the number that identifies the person as a taxpayer of the member State;

full name of the taxpayer (organization/individual entrepreneur) of the member State;

location (residence) of the taxpayer of the member State;

number and date of the agreement (contract);

number and date of specification.

If the taxpayer of the member State, from whom the goods are purchased, is not the owner of these goods (which is a commission agent, attorney, agent), the information specified in paragraphs 2 - 6 of the given subparagraph shall be submitted also with regard to the owner of goods being sold.

If the information message is being submitted in a foreign language the Russian translation shall be required.

Information message shall not be submitted when information specified by the given subparagraph is stipulated by the agreement (contract), referred to in paragraph 5 of the given paragraph;

7) agreements (contracts) on commission or agency agreement (contract) (in cases of its conclusion);

8) agreements (contracts). on the basis of which the goods imported to the territory of the one member State from the territory of another member State, under agreements (contracts) on the commission or under an agency agreement (contract) (in the cases provided by paragraphs 13.2-13.5 of this Protocol, except cases when indirect taxes are paid by the commissioner, attorney or agent) were purchased.

The documents referred to in subparagraphs 2 - 8 of the given paragraph may be submitted in copies certified in accordance with the legislation of the member State or in electronic form in accordance with the procedure provided by the legal acts of tax authorities of member States or by other legal acts of member States. The format of these documents shall be determined by the legal acts of tax authorities of member States or by other normative legal acts of member States.

Under the leasing agreement (contract) upon the first payment of VAT the taxpayer shall submit to the tax authority documents provided in subparagraphs 1 - 8 of the given paragraph. Later, the taxpayer shall submit to the tax authority along with tax declaration documents (its' copies), provided by the subparagraphs 1 and 2 of the given paragraph.

The documents, indicated in this paragraph, except Application and information message, shall not be provided to tax authorities, if their non-submission simultaneously with tax declaration is provided by the legislation of member State, to whose territory the goods are imported.

21. Updated (instead of the previously submitted ) application shall be submitted in hard copy ( four copies ) and in electronic form or in electronic form electronically ( digitally ) signed by the taxpayer. Along with updated ( instead of the previously submitted ) application documents provided in subparagraphs 2 - 8 of paragraph 20 of this Protocol shall be submitted, if they were not previously presented to the tax authority .

If submission of updated (instead of the previously submitted) applications does not entail changes to previously submitted tax declaration, the taxpayer does not submit a revised (additional) tax declaration , unless otherwise provided by the legislation of a member State. Submission of such updated applications does not entail recovery of previously accepted VAT sums subject to deduction, paid upon importation of goods.

Updated (instead of the previously submitted) application is not in the cases established by the legislation of a member State .

22. In cases of non-payment, partial payment of indirect taxes on imported goods, the payment of such taxes at a later date than compared with date established by paragraph 19 of this Protocol, as well as in the case of detecting non-submission of tax declarations , their submission in violation of the period established by paragraph 20 of this Protocol or in cases of discrepancy of data specified in the tax declarations with the data obtained through the exchange of information between the tax authorities of the member States, the tax authority shall recover indirect taxes and penalties in the order and amount specified by the legislation of the member State, on whose territory these goods were



imported, as well as apply means for the enforcement of obligations on payment of indirect taxes, penalties and liabilities established by the legislation of the member State.

23. When returning imported goods in the month when they were registered, operations for the importation of these goods shall not be specified in the tax declaration, if the return of the goods was done because of inadequate quality and (or) incomplete set.

Return of goods because of inadequate quality and (or) incomplete set must be confirmed by the claim agreed by the participants of the agreement (contract), as well as by the documents relevant to the perpetuation of operations with such goods. Such documents may include acts of reception and transmission of goods (in the absence of transport of the returned goods), transportation documents ( in the case of transport of the returned goods ) , acts of destruction or other documents . In the case of a partial return of such goods, specified documents ( copies ) shall be submitted to the tax authority together with the documents provided in paragraph 20 of this Protocol.

When returning the imported goods due to this reason at the end of the month in which the goods were taken on the account, the taxpayer shall submit to the tax authority the updated ( additional ) tax declaration and documents ( copies) referred to in the second subparagraph of this paragraph.

Documents referred to in the second paragraph of this paragraph may be submitted in electronic form in the manner prescribed by normative legal acts of the tax authorities of the member States or other normative legal acts of the member States. The format of such documents shall be determined by the tax authorities of the member States or other normative legal acts of the member States.

In the case of a partial refund because of inadequate quality and (or) a incomplete set of goods, updated application (instead of the previously submitted ) without reporting information about partially returned goods shall be submitted to the tax authority. This application shall be submitted either in hard copy (four copies) and in electronic form or in electronic form, electronic (digitally) signed by the taxpayer.

In the case of a full refund due to inadequate quality and (or) an incomplete set of all goods, details of which were previously included in the previously submitted application , the updated application (instead of the previously submitted) shall not be submitted to the tax authority . Taxpayer shall inform the tax authorities on the details of previously submitted application which reflected the full information on returned goods, in the form and manner established by normative legal acts of tax authorities of member States or other normative legal acts of the member States.

In case of partial or full refund of the goods due to inadequate quality and (or) incomplete set, recovery of VAT previously paid upon the importation of these goods and taken to a deduction is made in the tax period in which the goods are returned, unless otherwise provided by the legislation of member State.

24. By increasing the cost of imported goods in the event of an increase in their prices after the month in which the goods have been accepted by the taxpayer to the account, the tax base for VAT shall be increased by the difference between the modified and the previous cost of the imported goods. VAT payment and submission of tax declarations shall be made not later than the 20th of the month following the month in which the participants of the agreement (contract) changed the price of imported goods .

The difference between the modified and the previous cost of the acquired imported goods shall be reflected in the tax declaration, along with which the taxpayer shall submit the tax authority:

application (reflecting the difference between the modified and the previous cost) in hard copy ( four copies ) and in electronic form or in electronic form with electronic (electronic and digital) signature of the taxpayer;

agreement (contract) or other document provided by the parties of the agreement (contract), which confirms the increase in the price of imported goods, corrected invoice (if its invoicing (issuance) is provided by the legislation of a member State). These documents may be submitted in copies certified in accordance with the legislation of a member -sState, or in electronic form in accordance with the procedure established by normative legal acts of the tax authorities of the member States or other normative legal

acts of the member States. The format of such documents shall be determined by normative legal acts of the tax authorities of the member States or other normative legal acts of the member States .

25. In the case of using goods, imports of which into the territory of a member State in accordance with its legislation was done without payment of indirect taxes, for purposes other than those, for which an exemption is granted or other order of payment is provided, import of such goods is subject to indirect taxes in order established by this section.

26. The amount of indirect taxes paid (offset) for goods imported into the territory of one member State from the territory of another member State shall be subject to deductions (offsets) in accordance with the legislation of the member State, on whose territory the goods are imported.

27. Collection of excise taxes on goods, which are subject to the marking by excise stamps (accounting control marks, signs) shall be carried out by customs authorities of member States, unless otherwise is stipulated by legislation of member States.

#### IV. Procedure on Collection of Indirect Taxes while Performing Works and Rendering Services

28. Collection of indirect taxes while performing works, rendering services shall be carried out in the member State, whose territory is recognized as the point of selling of works and services (except work referred to in paragraph 31 of this Protocol).

When performing works, rendering services tax base, rates of indirect taxes, the procedure of tax collection and tax preferences (tax exemption) shall be determined in accordance with the legislation of the member State, whose territory is recognized as the point of selling works and services, unless otherwise is stipulated by this section.

29. The territory of the member State shall be recognized as the point of selling works and services if:

1) works, services are directly connected with immovable property located on the territory of this member State.

The provisions of this subparagraph shall also be applied in respect of rental services, employment and the provision for use of the immovable property on other basis;

2) works, services are directly connected with movable property, vehicles, located in the territory of this member State;

3) services in the sphere of culture, arts, studying (education), natural education, tourism, recreation and sports are provided in the territory of this member State;

4) the taxpayer of this member State purchases:

consulting, legal, accounting, auditing, engineering, advertising, design, marketing services, service for information processing, as well as scientific research, development and technological works;

work, services for the development of computer programs and databases (software and information products of computer technology), their adaptation and modification, maintenance of such programs and databases;

services on staff provision, if the staff works in the place where the purchaser carries out its activities.

The provisions of this subparagraph shall also be applied upon:

transfer, granting, assignment of patents, licenses and other documents certifying the entitlements for industrial property rights, trade marks, trademarks, trade names, service marks, copyrights, related rights or other similar rights protected by the state;

renting, leasing and lending movable property on other grounds, except renting, leasing and lending vehicles on other grounds;

provision of services by a person who is involving another person on his own behalf for the main contracting party of the agreement (contract) or on the behalf of the main contracting party of the agreement (contract) to take part in performing work and rendering services provided by this subparagraph;

5) the work performed, services are provided by the taxpayer of the member State, if otherwise is not stipulated by subparagraphs 1 – 4 of this paragraph.

The provisions of this subparagraph shall also apply when renting, leasing and lending vehicles for other reasons.

30. Documents certifying the point of selling works, services shall be:

agreement (contract) for performing works, rendering services, concluded by taxpayers (payers) of the member States;

documents certifying the fact of performance of works and rendering services;

other documents stipulated by the legislation of the member States.

31. When performing the works on processing of raw materials supplied by the customer, imported to the territory of one member State from the territory of another member State with the subsequent export of refined products to the territory of another state, the procedure of collection VAT and provision of control for their payment shall be carried out in accordance with Section II of this Protocol, unless otherwise is provided by this section. Meanwhile the tax base of VAT shall be defined as the cost of performed work carried out on processing of raw materials supplied by the customer.

32. To confirm the validity of the zero rate of VAT upon selling works, referred in to paragraph 31 of this Protocol, simultaneously with the tax declaration (calculation), the following documents (copies) should be presented to the tax authorities:

1) agreement (contract) concluded between taxpayers (payers) of the member States;

2) documents certifying the implementation of works and services;

3) documents, confirming the export (import) of goods listed in paragraph 31 of this Protocol;

4) application (on paper in original or in copy at the discretion of tax authorities of the member States) or list of applications (on paper or in electronic form with electronic (digital) signature of taxpayer);

The list of Applications shall be presented in order, established by subparagraph 3 of the paragraph 4 of this Protocol.

In case of exporting raw materials supplied by the customer outside of the EAEU an application (list of Applications) to tax authority shall not be submitted.

In case of exporting raw materials supplied by the customer from the territory of one member State to the territory of another member State and placing them under the customs procedure of free customs zone or free warehouse in the territory of other member State instead of application (list of applications), a copy of customs declaration certified by customs authority in accordance with which such goods have been placed under the customs procedure of free customs zone or free warehouse shall be submitted in to tax authority of the first member State,;

5) Customs declaration confirming the export of products of processing of goods made outside the territory of the EAEU;

6) other documents stipulated by the legislation of the member States. Documents provided in subparagraphs 1, 2, 3, 5, 6, the fourth paragraph of subparagraph 4) of this paragraph may be submitted in electronic form in accordance with the procedure established by normative legal acts of the tax authorities of the member States or other normative legal acts of member States. The format of such documents shall be determined by the tax authorities of the member States or other normative legal acts of the member States.

Documents, provided by this paragraph, excluding application (list of applications) shall not be submitted to tax authority, if non-submission of documents confirming the validity of the zero VAT rate together with the tax declaration is stipulated by the law of the member State on whose territory the processing is carried out.

33. If the taxpayer is carrying out several types of works or services, taxation procedure of which is regulated by the this section, and the performance of certain works and services is subsidiary to the performance of other works and services, than the point of sale of subsidiary works and services is recognized as the place of performance of primary works and services.

ANNEX 19  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Common Principles and Rules of Competition

I. General Provisions

1. This Protocol is developed in accordance with section XVIII of the Treaty on the Eurasian Economic Union (hereinafter – the Treaty), and defines the features of its application, fines for violation of common competition rules on transboundary markets in the territory of two or more member States (hereinafter - transboundary market), the procedure for monitoring by the Commission of the observance of common competition rules on transboundary markets, (including cooperation with the authorized bodies of the member States), cooperation of the authorized bodies of the member States in conducting control over observance of competition (antimonopoly) legislation, and also on introducing State price regulation and challenging the decisions of the member States on its introduction.

2. The terms used in this Protocol, and also for the purposes of section XVIII of the Treaty, shall mean:

1) "Vertical Agreement" means an agreement between business entities (Market Participants), one of which buys the good or is a potential buyer, and another one provides the good or is a potential seller of such good;

2) "Substitutable Goods" mean goods that can be compared by their functional purpose, application, quality and technical characteristics, price and other parameters so that the purchaser actually substitutes or is ready to replace one good by another good in the consumption (including consumption of goods for production purposes);

3) "State Price Regulation" means setting prices (tariffs), price premiums (tariff premiums), maximum or minimum prices (tariffs), maximum or minimum price premiums (tariff premiums) by the State authorities and local authorities of the member States in the manner prescribed by the legislation of the member States;

4) "State or Municipal Preferences" mean providing by executive authorities, local authorities of the member States, other bodies or organizations exercising functions of these bodies to individual business entities (market participants) preferences that provide them with more favorable conditions of activities by transferring State or municipal property, other objects of civil rights or by way of providing property exemptions, State or municipal guarantees;

5) "Group of Persons" means a group of individuals and (or) juridical persons, corresponding to one or more of the following attributes:

business company (partnership, economic partnership) and an individual or a juridical person, if such individual or a juridical person has by virtue of its participation in this business entity (partnership, economic partnership) or in accordance with the authorities received, including on the basis of the written agreement, from the other parties, more than fifty percent of the total number of votes attached to voting shares (stakes) in the charter (share) capital of this business company (partnership, economic partnership);

business entity (market participant) and an individual or a juridical person, if such an individual or a juridical person exercises the functions of the sole executive body of the business entity (market participant);

business entity (market participant) and an individual or a juridical person, if such an individual or a juridical person under charter documents of the business entity (market participant) or a contract (agreement) concluded with this business entity (market participant), has the right to give binding instructions to this business entity (market participant);

business entities (market participants), wherein more than 50 percent of the quantitative composition of the collegial executive body and (or) the board of directors



(supervisory board, the board of the fund) constitute the same individuals;

an individual, his or her spouse, parents (including adoptive parents), children (including adopted children), brothers and sisters;

persons each of whom under any of the grounds specified in the second - sixth paragraph of this subparagraph enter into the group with the same person, as well as other persons entering into the group with any of these persons under any of the grounds specified in the second - sixth paragraph of this subparagraph;

business company (partnership, economic partnership), individuals and (or) juridical persons that enter one group of persons under any of the grounds specified in the second - seventh paragraphs of this subparagraph, if such persons by virtue of their joint participation in this business company (partnership, economic partnership) or in accordance with the authorities obtained from other persons, have more than 50 percent of the total number of votes attached to voting shares (stakes) in the charter (share) capital of this business company (partnership, economic partnership).

A group of persons is regarded as a single business entity (market participant), and the provisions of section XVIII of the Treaty and this Protocol relating to business entities (market participants), apply to the group of persons, except for the cases provided in this Protocol.

For the purposes of implementation competition (antimonopoly) policy in the territory of the member States the definition of the "group of persons" may be specified in the legislation of the member States, including the size of the values of disposal(participation) of shares (stakes) of one person in the charter (share) capital of another person where such disposal (participation) is recognized as a group of persons;

6) "Discriminatory Conditions" mean conditions of access to the goods market, conditions of production, exchange, consumption, acquisition, sale, other transfer of goods under which a business entity (market participant) or several business entities (market participants) are put in disadvantage compared to other business entity (market participant) or other business entities (market participants) taking into account the conditions, limitations and specificities under this Treaty and (or) other international

agreements of the member States;

7) "Dominant Position" means the position of a business entity (market participant) (group of persons) or several business entities (market participants) (groups of persons) on a certain goods market, that gives such a business entity (market participant) (group of persons) or such business entities (market participants) (groups of persons) the ability to exert decisive influence on the general conditions of circulation of the good on the relevant goods market, and (or) eliminate from this market other business entities (market participants), and (or) impede access to this goods market for other business entities (market participants);

8) "Competition" means competitiveness between business entities (market participants) where independent actions of each of them exclude or restrict the possibility of each of them to unilaterally affect the general conditions of goods circulation on the relevant goods market;

9) "Confidential Information" means all kinds of information protected by the normative legal acts of the member States, except for information related to the State secret (the State secrets) pursuant to the legislation of the member States;

10) "Coordination of economic activity" means coordination of actions of the business entities (market participants) by a third party, not entering one group of persons with any of these business entities (market participants) and which does not operate on the goods market (goods markets), where coordination of actions of business entities (market participants) is performed;

11) "Indirect Control" means the possibility of a juridical person or an individual to determine decisions made by the juridical person, through the juridical person or several juridical persons where direct control is maintained between them;

12) "Monopolistically High Price" means the price fixed by a business entity (market participant) with dominant position, if the price exceeds the amount of costs required for production and sale of such good and profits and the price that was formed in the conditions of competition on the goods market, comparable in composition of buyers or sellers of goods, conditions of the goods circulation, conditions of access to

the goods market, government regulation, including taxation and customs-tariff regulation (hereinafter – the comparable goods market) if there is such a market in the territory of the EAEU or abroad. The price set by the natural monopoly entity within the tariff for that good, determined in accordance with the legislation of the member States, cannot be considered as a monopolistically high price;

13) "Monopolistically Low Price" means the price fixed by a business entity (market participant) with dominant position, if the price is lower than the amount of costs required for the production and sale of such good and profits and lower than the price that was formed in the conditions of competition on the comparable goods market if there is such a market in the territory of the EAEU or abroad;

14) "Unfair Competition" means any activity of the business entity (market participant) (group of persons) or several business entities (market participants) (groups of persons) aimed at obtaining an advantage in the business activity that contradicts the legislation of the member States, customary business practice, the requirements of decency, reasonableness and fairness and caused or may cause damage to other business entities (market participants), competitors or damaged or may cause damage to their business reputation;

15) "Signs of restriction of competition" mean reducing the number of business entities (market participants), not entering into the same group of persons, on the goods market, increase or decrease of the price of goods not connected with the related changes of other general conditions of circulation of the good on the goods market, refusal of business entities (market participants), not entering into the same group of persons, from independent action on the goods market, determination of the general conditions of circulation of the good on the goods market by the agreement between business entities (market participants) or in accordance with the mandatory instructions of another person, or as a result of coordination by business entities (market participants), not belonging to the same group of persons, of their actions on the goods market, as well as other circumstances, creating an opportunity for the business entity (market participant) or several business entities (market participants) to unilaterally affect general conditions

of the goods circulation on the goods market;

16) "Direct Control" means a possibility of a juridical person or an individual to determine decisions made by the juridical person through one or more of the following actions:

exercising of the functions of its executive body;

obtaining the right to determine the conditions of performing business activity by the juridical person;

disposal of more than 50 percent of the total number of votes attached to the shares (stakes) comprising the charter (share) capital of a juridical person;

17) "Agreement" means an agreement in writing contained in a document or several documents, as well as an oral agreement;

18) "Good" mean the object of civil rights (including work, service, including financial services) intended for sale, exchange or other introduction into circulation;

19) "Goods Market" means the sphere of circulation of goods which cannot be replaced by another good, or substitutive goods, within the boundaries of which (including geographic boundaries), based on the economic, technical or other possibility or expediency, the buyer may purchase goods and this possibility or expediency is absent outside of it;

20) "Business Entity (Market Participant)" means a commercial organization or a nonprofit organization, performing activities that generate its income, an individual entrepreneur, as well as an individual whose professional income-generating activity in accordance with the legislation of the member States is subject to State registration and (or) licensing;

21) "Economic Concentration" means transactions, other actions, implementation of which has or may have an impact on the condition of competition.

3. The dominant position of a business entity (market participant) is established based on the analysis of the following circumstances:

1) share of the business entity (market participant) and its relation to the shares of competitors and customers;

2) possibility of the business entity (market participant) to unilaterally determine the level of prices of goods and have a decisive influence on the general conditions of the relevant goods market;

3) availability of economic, technological, administrative or other restrictions on access to the goods market;

4) period of existence of the possibility for the business entity (market participant) to have a decisive influence on the general conditions of circulation of the good on the goods market.

4. Legislation of the member States may establish other (additional) conditions for the recognition of the dominant position of the business entity (market participant).

The dominant position of a business entity on the transboundary market is established by the Commission in accordance with the Methodology for Assessing the State of Competition on the Transboundary Markets, approved by the Commission.

## II. Admissibility of Agreements and Exemptions

5. Agreements provided for in paragraphs 4 and 5 of Article 76 of the Treaty, as well as agreements of business entities (market participants) on joint activities, which can lead to the consequences set out in paragraph 3 of Article 76 of the Treaty, may be recognized as admissible if they do not impose restrictions on business entities (market participants) not necessary to achieve the objectives of these agreements and not creating an opportunity to eliminate competition on the relevant goods market and if the business entities (market participants) prove that such agreements have or may have the effect of:

1) improvement of production (sale) of goods or stimulation of technical (economic) progress or improving the competitiveness of the goods produced in the member States on the global goods market;

2) receipt by consumers of a proportionate part of advantages (benefits) that are acquired by the relevant persons from performing such actions.

6. "Vertical" agreements are allowed if:

1) such agreements are franchise agreements;

2) the share of each business entity (market entity) being a party to such an agreement shall not exceed twenty percent on the goods market of the good which is the subject of the "vertical" agreement.

7. The provisions of paragraphs 3-6 of Article 76 of the Treaty shall not apply to agreements between business entities (market participants), belonging to the same group of persons, if one of these business entities (market participants) regarding another business entity (market participant) has established direct or indirect control or if such entities (market participants) are under direct or indirect control of a single person, except for the agreements between business entities (market participants) performing activities the simultaneous execution of which by one business entity (market participant) is not permitted in accordance with the legislation of the member States.

### III. Control over Observance of Common Competition Rules

8. Prevention of violation of economic entities (market entities) of the member States as well as individuals and non-profit organizations of the member States, which are not economic entities (market entities) of common rules of competition established in Article 76 of the Treaty, in the territory of the member States is performed by the authorized bodies of the member States.

9. Suppression of violations of business entities (market participants) of the member States as well as individuals and nonprofit organizations of member States, which are not business entities (market participants) of common rules of competition established in Article 76 of the Treaty, is performed by the Commission, if such violations have or may have an adverse effect on competition on transboundary markets, except for violations that adversely affect competition on transboundary financial markets, the suppression of which is performed in accordance with the national legislation of the member States.

#### 10. The Commission:

1) examines applications (materials) on existence of signs of violation of the common competition rules established in Article 76 of the Treaty which have or may have an adverse effect on competition in transboundary markets, as well as conducts necessary investigations;

2) initiates and examines cases of violation of common competition rules established in Article 76 of the Treaty which have or may have an adverse effect on competition in transboundary markets based on appeals from the authorized bodies of the member States, economic entities (market entities) of the member States, authorities of the member States, natural persons or on its own initiative;

3) renders determinations, adopts decisions binding for economic entities (market entities), including decisions on application of penalties in respect of economic entities (market entities), in cases provided for in section XVIII of the Treaty and this Protocol, on measures for termination of violation of common competition rules, elimination of consequences of their violation, on ensuring competition, on prevention of actions that may hinder creation of competition and (or) may lead to limitation, elimination of competition in transboundary markets and violation of common competition rules in cases stipulated by section XVIII of the Treaty and this Protocol;

4) requests and receives information from the authorized bodies of the member State States, local authorities, other bodies carrying out their functions or organizations of the member States juridical persons and natural persons, including confidential information necessary for implementing competence on control over compliance with common competition rules in transboundary markets;

5) annually, not later than June 1, submits to the High Council the annual report on the state of competition in transboundary markets and measures taken to prevent violation of common competition rules, and posts the approved report on the official website of the Commission in the Internet;

6) posts the adopted decisions on cases of violation of the common competition rules on its official website in the Internet;

7) carries out other functions necessary to implement the provisions of section XVIII of the Treaty and this Protocol.

11. The order of considering applications (materials) on violations of common competition rules on transboundary markets, the order of conducting investigations of violations of common competition rules on transboundary markets and also the order of considering cases of violation of common rules of competition on transboundary markets are approved by the Commission. Results of the analysis of the condition of competition, conducted by the Commission with the aim of considering a case on violation of common competition rules, are subject to inclusion into the decision of the Commission, adopted as a result of consideration of the case, except for confidential information.

Also for the purposes of exercising the authority to control over observance of common competition rules on transboundary markets, necessary for the implementation of section XVIII of the Treaty and the Protocol, the Commission approves:

methodology of assessment of the state of competition;

methodology of determining the monopolistically high (low) prices;

methodology of calculation and procedures for imposing fines;

if necessary, specificities of application of common competition rules in various sectors of the economy;

procedure for interaction, including the informational interaction, of the Commission and the authorized bodies of the member States.

12. For ensuring investigation and preparation of materials on cases of violation of common competition rules on transboundary markets, established in Article 76 of the Treaty the Commission maintains the relevant structural subdivision in the Commission (hereinafter – authorized structural subdivision of the Commission).

13. The authorized structural subdivision of the Commission in considering applications (materials) on violation of common competition rules on transboundary markets, in conducting investigations of violations of common competition rules on transboundary markets, considering cases of violation of common competition rules on



transboundary markets requests necessary information for considering the application (materials), conducting investigation, considering the case from the authorized bodies of the member States, local executive bodies, other bodies and organizations of the member States fulfilling their functions, juridical persons and individuals.

Business entities (market participants), nonprofit organizations, authorized bodies, local executive bodies, other bodies or organizations (their officials) of the member States performing their functions, individuals are required to submit to the Commission upon its request in a timely manner information, documents, data and explanations required by the Commission in accordance with its mandate.

14. Decisions of the Commission on imposing fines, decisions of the Commission obliging the violator to conduct specific actions, are executive documents and are enforceable by the bodies of mandatory implementation of judicial bodies, acts of other bodies and officials of the member State, in the territory of which the violator business entity (market participant), nonprofit organization, which is not a business entity (market participant), has been registered, or the violator individual permanently or temporarily resides.

Acts, actions (inaction) of the Commission in the field of competition are appealed in the Court of the EAEU in the manner prescribed by Statute of the Court of the EAEU (Annex No. 2 to the Treaty) taking into account the provisions of the Treaty.

In case the Court of the EAEU accepts for consideration the application on appealing the Commission's decision on the case of violation of common competition rules on transboundary markets, the Commission's decision is suspended until the day of entering into force of the Court's decision.

The Court of the EAEU accepts the application on appealing the Commission's decision on the case of violation of common competition rules on transboundary markets without preliminary addressing of the appellant to the Commission to resolve the issue in prejudicial order.

15. Acts, actions (inaction) of the authorized bodies of the member States are appealed in the judicial bodies of the member States in accordance with the procedural legislation of the member States.

#### IV. Fines for Violation of Common Competition Rules on Transboundary Markets, Imposed by the Commission

16. The Commission, in accordance with the Methodology of Calculation and the Order of Imposing Fines, approved by the decision of the Commission, imposes penalties for violations of common competition rules on transboundary markets, stipulated in Article 76 of the Treaty, as well as for not submitting data (information) to the Commission upon its request, or submission of deliberately false information (information), in the following amounts:

1). Unfair competition, not allowed in accordance with paragraph 2 of Article 76 of the Treaty, entails imposition of fines on officials and individual entrepreneurs in the size of 20 000 to 110 000 Russian rubles; for juridical persons - from 100 000 to 1 000 000 Russian rubles.

2). Conclusion by the business entity (market participant) of an agreement not admissible in accordance with paragraphs 3-5 of Article 76 of the Treaty, as well as participation in it, entails imposition of fines on officials and individual entrepreneurs in the size from 20 000 to 150 000 Russian rubles; for juridical persons - from 0.001 to 0.015% of the income of the violator from sales of goods (works, services) on the market where the violation was committed or the amount of expenditure on the purchase of goods (works, services) by the violator, but not less than 100 000 Russian rubles, and if the amount of revenues of the violator from selling goods (works, services) on the market where the violation was committed exceeds 75 percent of the total revenue of the violator from sales of goods (works, services) - in the amount of 0.0003 to 0.003 percent of the revenue of the violator from sales of goods (works, services) on the market where the violation was committed, but not less than 100 000 Russian rubles.

3). Coordination of economic activities of business entities (market participants), not allowed in accordance with paragraph 6 of Article 76 of the Treaty entails imposition of fines on individuals in the size of 20 000 to 75 000 Russian rubles; on officials and individual entrepreneurs in the size of 20 000 to 150 000 Russian rubles; for juridical persons - from 200 000 to 5 000 000 Russian rubles.

4). Committing by a business entity (market participant) with a dominant position on the market of actions recognized as abuse of the dominant position and not allowed in accordance with paragraph 1 of Article 76 of the Treaty entails imposition of fines on officials and individual entrepreneurs in the size of 20 000 to 150 000 Russian rubles; for juridical persons - from 0.001 to 0.015% of the revenue of the violator from sales of goods (works, services) on the market where the violation was committed or the amount of expenditure of the violator on the purchase of goods (works, services) on the market where the violation was committed, but not more than one fifties of the total amount of revenues of the violator from sales of all goods (works, services) and not less than 100 000 Russian rubles, and if the amount of revenues of the violator from sales of goods (works, services) on the market where the violation was committed exceeds 75 percent of the total revenue of the violator from selling all goods (works, services) - in the amount of 0.0003 to 0.003 per cent of the revenue of the violator from the sales of goods (works, services) on the market where the violation was committed, and not less than 100 000 Russian rubles.

5). Non-submission or late submission to the Commission of data (information) foreseen in section XVIII of the Treaty and this Protocol, including non-submission to the Commission of data (information) upon the request of the Commission, as well as submission of deliberately false data (information) entails imposition of fines on individuals in the amount of 10 000 to 15 000 Russian rubles; on officials and individual entrepreneurs - from 10 000 to 60 000 Russian rubles; on juridical persons - from 150 000 to 1 million Russian rubles.

The official under this Protocol implies managers and employees of business entities (market participants), as well as of nonprofit organizations, which are not

business entities (market participants), performing managing or administrative functions, heads of organizations performing functions of the sole executive bodies of business entities (market participants), nonprofit organization, which are not business entities (market participants). For the purposes of this Protocol for violation of common competition rules on transboundary markets individuals, professional income-generating activity of whom in accordance with the legislation of the member States is subject to State registration and (or) licensing, bear responsibility as officials.

17. Fines provided for in subparagraphs 1-5 of paragraph 16 of this Protocol shall be paid to the budget of a member State in the territory of which the violator juridical person is registered, or where the violator individual permanently or temporarily resides.

18. Fines foreseen in paragraph 16 of this Protocol are paid by the business entity (market participant), individual or nonprofit organization, which is not business entity (market participant) in the national currency of the member State in the territory of which business entity (market participant), nonprofit organization that violated common competition rules under this Protocol is registered, or individual temporarily or permanently resides, at the rate set by the Central (National) Bank of the member State on the date of the Commission's decision to impose a fine.

19. A person (group of persons) that voluntarily reported to the Commission of the conclusion of an agreement, not allowed in accordance with Article 76 of the Treaty shall be exempt from liability for the violation specified in subparagraph 2 of paragraph 16 of this Protocol if the following conditions are jointly fulfilled:

at the moment of applying of the person with application, the Commission did not have the information and documents about the violation;

the person refused from participation or further participation in the agreement, not allowed in accordance with Article 76 of the Treaty;

information and documents submitted are sufficient to determine a violation.

The person that first meets all conditions stipulated in this paragraph is exempted from responsibility.

20. The application submitted at the same time on behalf of several persons who have concluded an agreement, not allowed in accordance with Article 76 of the Treaty, shall not be considered.

21. The amount of fines for violation of common competition rules on transboundary markets, established in this section, may be amended by the decision of the Supreme Council, except for fines imposed on juridical persons and calculated based on the amount of the revenues of the violator from the sales of goods (works, services) or the amount of expenditure of the violator on the purchase of goods (works, services) on the market where the violation occurred.

#### V. Interaction of the Authorized State Bodies of the Member States

22. Interaction of the authorized State bodies of the member States with the aim of implementing section XVIII of the Treaty and this Protocol is performed within the law enforcement activities through sending notifications, requests for information, requests and orders for conducting separate proceedings, exchange of information, coordination of enforcement activities of the member States, as well as performing enforcement activities upon request of one of the member States.

This interaction is carried out by the central administrative offices of the authorized State bodies of the member States.

23. The authorized body of the member State notifies the authorized State body of another member State if it becomes aware that its law enforcement activities may affect the interests of another member State in the sphere of protection of competition.

24. Under the enforcement activities that may affect the interests of another member State in the sphere of protection of competition, this Protocol gives the following understanding to the activities of the authorized State bodies of the member States:

- 1) related to the law enforcement activity of another member State;

2) related to anti-competitive actions (except for mergers or acquisitions and other actions) including carried out in the territory of another member State;

3) concerning transactions (other actions), in which one of the parties or a person controlling one or more parties to the transaction or otherwise determining the conditions for conducting their business activity, is an entity registered or incorporated in accordance with the legislation of another member State;

4) associated with the use of measures of coercive influence that require or prohibit any activities in the territory of another member State within the framework of ensuring observance of competition (antimonopoly) legislation.

25. Notifications on transactions (other actions) are sent:

1) not later than on the date of the decision to extend the period of consideration of the transaction by the authorized body of the notifying member State;

2) in cases where the decision on the transaction is accepted without considering its extension - no later than the date of the decision on the transaction within a reasonable time allowing the notified member State to express its opinion on the transaction.

26. In order to ensure the possibility of taking into account the views of another member State, the notifications on the matters specified in subparagraphs 1, 2 and 4 of paragraph 24 of this Protocol, are sent to this member State on the stage of consideration of that case in detecting circumstances that require notification of the other member States, with keeping reasonable terms, allowing the notified member State to express its opinion, but in any case before adopting a decision on the case or a settlement agreement.

27. The notification is sent in writing and must contain sufficient information allowing the notified member State to conduct a preliminary analysis of the impact of law enforcement activities of the notifying member State, which affects the interests of the notified member State.

28. The authorized State bodies of the member States may submit requests for information and documents, as well as orders for conducting separate proceedings.

29. A request for information and documents, the order on separate proceedings are made in writing on the letterhead of the authorized body of the member State and shall contain:

1) number of the relevant case (if available) under which the information is requested, a detailed description of the violation and other facts related to the violation, the legal qualification of the act in accordance with the legislation of the requesting member State accompanied by the text of the applicable law;

2) first names, father's names and last names of persons regarding whom the relevant cases are considered, witnesses, information on their domicile or residence, nationality, occupation, place and date of birth, for juridical persons - their name and location (in case of availability of such information);

3) in the order of receipt of the document - the exact address of the recipient and the name of the submitted document;

4) list of information and actions to be submitted or executed (for conducting a survey, it is necessary to specify which circumstances should be clarified and refined, as well as to specify the sequence and wording of questions that should be put to the respondent).

30. Request for information and documents, the order for conducting separate proceedings may also contain:

1) specification of the period of completion of the required activities;

2) request for conducting the activities specified in the request in a certain sequence;

3) request for giving an opportunity to the representatives of the authorized State bodies of the requesting member State to be present when the measures specified in the request are performed and, if it does not contradict the legislation of each of the member States, to participate in their implementation;

4) other requests related to execution of the request, of the order.

31. The request for information and documents, the order for conducting separate proceedings is signed by the head of the requesting authorized body of the member State

or deputy thereof. Available copies of the documents referenced in the text of the request or order, as well as other documents required for their proper execution shall be attached to the request or the order.

32. Orders for the production of examinations and other proceedings, the execution of which requires additional expenses for the executing member State, are directed with prior coordination between the authorized State bodies of the member States.

33. Authorized State bodies of the member States may send procedural documents via mail directly to participants of the relevant cases in the territory of another member State.

34. A repeated request for information and documents, the order for conducting separate proceedings is allowed, in case of a necessity to obtain additional information or clarification of information obtained in the execution of the previous request or order.

35. The request for information and documents, and the order of conducting separate proceedings are executed within 1 month from the date of receipt or within another period agreed in advance by the authorized State bodies of the member States.

In case of a necessity to appeal to another public authority of the member State or to the business entity (market participant) of the requested member State the specified time increases for the duration of such appeal.

36. The requested authorized body of the member State conducts actions specified in the request or the order and answers the questions. The requested authorized body of the member State may on its own initiative, conduct actions, not covered by the request or the order, associated with their execution.

37. In case of impossibility of executing the request or the order within the time specified in the point 35 of this Protocol, the requested authorized body shall inform the requesting authorized body of the member State on impossibility of execution, of the assumed timing of execution of the request or the order.

38. The authorized bodies of the member States study the practice of execution of the requests for information and documents and the orders for conducting separate proceedings, and inform each other of the facts of their improper execution.



39. Documents issued or certified by the institution or by an official specially authorized for that within their competence and bearing the State seal in the territory of one of the member States, are accepted in the territory of the other member States without any special certification.

40. Legal assistance in cases of administrative violations may be refused, if the execution of the request is likely to harm the sovereignty, national security, public order or other interests of the requested member State or is contrary to its legislation.

41. Every member State shall bear the expenses arising in connection with the requests and the orders.

In some cases, the authorized bodies of the member States may agree on another procedure for expenses.

42. The authorized State bodies of the member States in the execution of the orders of conducting separate procedural and other actions carry out:

- 1) survey of persons regarding which the case is conducted, as well as witnesses;
- 2) vindication of documents necessary for the proceedings;
- 3) inspection of territories, premises, documents and objects of the person against whom the order is directed (except dwellings of such person);
- 4) obtain information from the government agencies and individuals necessary for the proceedings of case or consideration of case;
- 5) submission of documents or copies thereof to the participants of the case;
- 6) examination and other actions.

43. Procedural and other actions on relevant cases are made in accordance with the legislation of the member State.

44. In case if the law of the requested member State requires for conducting certain proceedings, issuance of special regulations of the authorized officials, their issuance is performed at the place of execution of the order.

45. By the agreement of the authorized State bodies of the member States, the separate proceedings in the territory of the requested member State may be performed in presence or with participation of the representatives of the authorized body of the

requesting member State in accordance with the legislation of the requested member State.

46. The authorized State bodies of the member States taking into account the requirements of their legislation exchange information:

1) on the state of the goods markets, approaches and practical results of demopolization under economic restructuring, methods and experiences in the prevention, control and suppression of monopolistic activity and in development of competition;

2) on information contained in the national business registers of the enterprise that has a dominant position and supplies goods to the goods markets of the member States;

3) the practice of reviewing the cases of violation of competition (antimonopoly) legislation by each of the member States.

47. The authorized State bodies of the member States cooperate in the development of national legislation and regulations on competition (antimonopoly) policies by providing information and providing methodical assistance.

48. Each of the authorized State bodies of the member States provides the authorized body of another member State any information on anticompetitive actions that it has, if such information is, in the opinion of the authorized body of the sending member State, relevant to or can be a basis for the enforcement activities of the authorized body of another member State.

49. Each of the authorized State bodies of the member States may submit to the authorized body of another member State a request for relevant information outlining circumstances of the case, for considering which the information is requested.

The authorized body of the member State that receives a request, provides to the requesting authorized body of another member State the available information that it has, if such information is considered by him as relevant for the enforcement activities of the requesting member State.

The requested information is sent within the terms agreed between the authorized State bodies of the member States, but not later than 60 calendar days from receipt of the request.

This information is used only for the purposes of the relevant request or consultation and should not be disclosed or transferred to the third parties without the consent of the authorized body of the member State that has sent this information.

50. In case if one of the member States believes that anticompetitive activities carried out in the territory of another member State adversely affect its interests, it may notify the member State within the territory of which the anticompetitive actions are performed, and may apply to that member State with a request to initiate appropriate enforcement actions related to the suppression of the relevant anticompetitive actions. This interaction is made through the authorized State bodies of the member States.

The notification shall contain information about the nature of the anti-competitive behavior and the possible consequences for the interests of the notifying member State, as well as a proposal for providing further information and other cooperation, which the notifying member State is competent to offer.

51. Upon receiving the notification in accordance with paragraph 50 of this Protocol, and after negotiations between the authorized State bodies of the member States (if they are necessary), the notified member State shall decide on the necessity of commencing the enforcement action or expansion of previously started enforcement actions against the anti-competitive practices stated in the notification. The notified member State shall notify the notifying member State of the decision. In the implementation of enforcement actions against anticompetitive actions specified in the notification, the notified member State shall inform the notifying member State of the results of the appropriate enforcement actions.

When deciding on the initiation of enforcement actions the notified member States is guided by its legislation.

The provisions of paragraphs 50 and 51 of this Article shall not limit the rights of the notifying member State to carry out enforcement actions under the legislation of that member State.

52. In cases of mutual interest in the implementation of the enforcement actions regarding interrelated transactions (performed actions), the authorized State bodies of the member States may agree on cooperation in the implementation of the enforcement actions. When deciding on cooperation in the implementation of enforcement actions the authorized State bodies of the member States shall take into account the following factors:

1) possibility of more efficient use of material and informational resources aimed at the law enforcement actions and (or) reduction of costs that the member States have in the course of the law enforcement activities;

2) possibilities of the member States regarding acquiring information that is necessary for the implementation of the law enforcement actions;

3) intended result of such interaction - increasing the possibilities of the interacting member States to achieve the objectives of their enforcement activities.

53. The member State properly notifying the other member State may restrict or terminate interaction under this Protocol and implement enforcement actions independently in accordance with the legislation of the member State.

54. The member State shall conduct agreed competition policy regarding the actions of the business entities (market participants) of third countries, if such actions could have a negative impact on competition on the goods markets of the member States, by applying norms of the legislation of the member States to such business entities (market participants) in the same manner and to the same extent, irrespective of their legal-organizational form and place of registration in equal conditions, as well as during interaction in the order prescribed by this section.

55. Information and documents provided within the framework of interaction on the matters specified in paragraphs 22-53 of this Protocol shall be confidential and may be used only for the purposes provided for in this Protocol. Use and transfer of

information to the third parties for other purposes is possible only with written agreement of the authorized body of the member State that has provided them.

56. Each member State shall ensure protection of information, documents and other information, including personal data provided by authorized body of another member State.

#### VI. Interaction of the Commission and the Authorized State Bodies of the member States in the Implementation of Control over Observance of Common Competition Rules

57. The interaction of the Commission and the authorized State bodies of the member States is carried out during the submission by the authorized State bodies of the applications on violation of common competition rules for consideration of the Commission, during consideration by the Commission of applications on violations of common competition rules on transboundary markets, conducting investigations of violations of common competition rules on transboundary markets, during consideration by the Commission of the cases of violation of common competition rules violation on transboundary markets, as well as in other cases.

If there is mutual interest of the authorized State bodies in the discussion of the most actual issues of the law enforcement practice, exchange of information and problems of harmonization of legislation of the member States, the Commission together with the authorized bodies of the member States conducts meetings at the heads level of the authorized State bodies of the member States and the member of the Collegium of the Commission in charge of competition and antimonopoly regulation issues.

The Commission conducts interaction with the central administrative offices of the authorized State bodies of the member States.

58. The decision to submit the application for consideration of the Commission is made by the authorized body of the member State at any stage of its review, performed

taking into account specificities established by the legislation of a member State, submitting the application.

In making such decision, the authorized body of a member State shall submit an appropriate written request to the Commission.

The request shall state:

title of the State body sending the application;

title of the business entity (market participant), actions (inaction) of which contain signs of violation of common competition rules;

description of the actions (inaction) containing signs of violation of common competition rules;

the boundaries of the goods market where the signs of violation have been revealed;

provisions of Article 76 of the Treaty, which in the opinion of the authorized State body of the member State, are violated.

The request includes an attachment of documents, in examination of which signs of violations of common competition rules were revealed, and which are necessary in the opinion of the authorized State body of the member State for reviewing the application by the Commission.

Submission by the authorized body of the member State to the Commission of the request is a basis for suspension of the application by the authorized body of the member State until the Commission adopts decision on conducting an investigation of violations of common competition rules, or on transferring the application (materials) to the authorized State bodies of member States according to the jurisdiction or on returning the application.

Authorized body of the member State informs the applicant of transferring of his application to the Commission within 5 working days from the date of its submission to the Commission.

Within a period not exceeding 5 working days from the date of receipt of the application on violation of common competition rules on transboundary markets, the

Commission notifies the authorized State bodies of the member States and the applicant of accepting the application for review.

59. The decision of the Commission to investigate violations of common competition rules on transboundary markets, or to transfer the application (materials) under their jurisdiction to the authorized State bodies of the member States is a ground for termination of consideration of the application by the authorized body of the member State.

60. The decision to transfer the application (materials) by the Commission for consideration to the authorized body of a member State is taken at any stage of its consideration, if the Commission finds that the suppression of violations of common competition rules is related to the competence of the authorized body of the member State.

In case of adopting such a decision the authorized structural subdivision of the Commission shall prepare a relevant request to the authorized body of a member State that shall be signed by a Member of the Collegium, responsible for the issues of competition and antimonopoly regulation.

The request shall state:

title of the business entity (market participant), actions (inaction) of which contain signs of violation of common competition rules;

description of the actions (inaction), containing signs of violation of common competition rules;

the boundaries of the goods market where signs of violation were revealed.

The request includes attached documents, in examination of which signs of violation of common competition rules were detected, and which in the opinion of the Commission are necessary for reviewing the request by the authorized body of the member State.

Within 5 working days from the date of submitting the application, the Commission shall notify the applicant of the transfer of the application to the authorized body of a member State.

61. In conducting an investigation of violations of common competition rules and considering cases on violation of common competition rules on transboundary markets, the Commission, if the information obtained upon request is insufficient to make a decision, may submit to the authorized State bodies of the member States a reasoned submission on conducting the following procedural actions:

survey of persons regarding whom the investigation and the relevant case is conducted, as well as of witnesses;

vindication of documents necessary for conducting investigations or for the proceedings of the case;

inspection of territories, premises, documents and objects of the person against whom investigation is conducted or a case on violations of common competition rules is considered (except for housing of such person );

submission of documents or copies thereof to participants of the relevant case;  
examination and other actions.

Procedural actions, which are performed in the territory of a member State where the violator is registered, against whom the Commission conducts investigation or is considering a case on violation of common competition rules, are conducted in presence and / or with the participation of employees of the authorized subdivision of the Commission, as well as of the representative of an authorized body of the member State in the territory of which the violation was committed and / or there were negative consequences for competition.

Employees of the authorized structural subdivision of the Commission, as well as the representative of the authorized body of the member State, in the territory of which the violator is registered are present in performing procedural actions in the territory of a member State, where the violation was committed and (or) there were negative consequences for competition.

In case of impossibility of participation of the employees of the authorized structural subdivision of the Commission and (or) representative of the interested authorized body of the member State in performing procedural actions, the authorized



body a member State implementing a reasoned submission of the Commission is entitled to conduct such procedural actions by himself with written notification on impossibility of attendance in performing such actions not later than 5 working days before their initiation.

62. The reasoned submission on conducting separate procedural actions shall be in writing and shall contain:

1) the number of the relevant case (if any) on which the information is requested, a detailed description of the violation and other relevant facts, the legal qualification of the act in accordance with Article 76 of the Treaty;

2) first names, father's names and last names of persons, regarding whom the Commission is considering the case or conducting investigation, of witnesses, their domicile or residence, nationality, place and date of birth, for juridical persons – their title and location (if such information is available);

3) the exact address of the recipient, and the title of the submitted document (if supply of the document is necessary);

4) list of information and actions to be submitted or executed (for conducting survey, it is needed to specify which circumstances should be clarified and refined, as well as to specify the sequence and wording of questions that the respondent must be asked).

63. The reasoned submission on conducting separate proceedings may also contain:

1) specification of the period of performance of the required activities;

2) request for conducting measures specified in the submission in a certain order;

3) names, father's names and last names of the employees of the authorized structural subdivision of the Commission who will be present during the measures specified in the submission, and, if it does not contradict the legislation of the requested member State, participate in their implementation;

4) other requests, related to the execution of submission.

64. Reasoned submission on conducting separate proceedings shall be signed by a member of the Collegium of the Commission in charge of competition issues and

antimonopoly regulation. Copies of the documents referenced in the text of the reasoned submission, as well as other documents necessary for proper execution thereof must be attached to the reasoned submission.

65. The authorized body of the member State, executing the reasoned submission by the Commission performs procedural actions listed in the reasoned submission of the Commission, in accordance with the legislation of its member State and only regarding persons, located in the territory of executing member State.

66. The reasoned submission on conducting examination and other proceedings, performance of which requires additional expenses for the requested member State is executed after agreeing on the issues of reimbursement between the Commission and the authorized body of the member State to which the submission is submitted.

67. The reasoned submission on conducting separate proceedings is performed within 1 month from the date of its receipt or a different period agreed in advance between the Commission and the authorized body of the member State to which it was directed.

In case if it is needed to appeal to another public authority of the member State or the business entity (market participant) of the executing member State, the specified timeframe increases for the duration of such appellation.

68. The authorized body of the executing member State performs actions specified in the reasoned submission and answers to the asked questions, and may on its own initiative conduct actions, not provided by the reasoned submission, related to its execution.

69. In the case of impossibility of execution of the reasoned submission or execution thereof within the terms specified in paragraph 67 of this Protocol, the authorized body of the member State shall inform the Commission of the impossibility of execution of the reasoned submission, or of the expected timing of its execution.

70. Execution of a reasoned submission on conducting separate proceedings may be denied in whole or in part, only in cases if its execution may impair the sovereignty, national security, public order of the executing member State or is contrary to its

legislation, of which the Commission is notified in writing by the member State. The Collegium of the Commission has the right to raise the issue of validity of a refusal of the authorized member State from executing the reasoned submission to the consideration of the Council of the Commission for making a decision.

71. Documents issued or certified by the institution or by a specially authorized official within their competence and bearing the State seal in the territory of a member State to the authorized body of which the reasoned submission is sent, are accepted by the Commission without any special certification.

72. The repeated submitting of a reasoned submission on conducting separate proceedings is allowed, if it is necessary to obtain additional information or clarification of information obtained in the execution of the previous submission.

73. If a reasoned submission on conducting separate proceedings is sent within a single case of violation of common competition rules on transboundary markets to two or more authorized bodies of the member States, the employees of the authorized structural subdivision of the Commission shall coordinate interaction with the authorized bodies of the member States with the Commission.

74. In conducting investigation of violations of common competition rules and considering cases of violation of common competition rules on transboundary markets, the Commission may send requests on submitting information and documents to the authorized bodies of the member States.

75. The request on submission of information and documents is made in writing and shall contain:

purpose of the request;

number of the relevant case (if available), under which the information is requested, detailed description of the violation and other relevant facts, legal qualification of the action in accordance with Article 76 of the Treaty and this Protocol;

information on the person regarding whom the relevant case is being considered (if available):

for individuals – surname, name, father’s name, place of domicile or residence, nationality, place and date of birth;

for juridical persons – title and location;

term, within which the information should be submitted, but not less than 10 working days from the date of the receipt of the request;

list of information, subject to submission.

The request should include attached copies of the documents, reference to which are contained in the text of the request, as well as other documents, necessary for proper execution of the request.

76. The authorized body of the member State submits the available information within the terms established in the request.

77. In case execution of the request is impossible (if its execution may harm sovereignty, national security, public order of the member State or contradicts to its legislation) the requested authorized body of the member State informs the Commission within the period not exceeding 10 working days from the date of the receipt of the request, indicating reasons for impossibility of submitting information, and in case if the information cannot be submitted within the timeframes established by the Commission, designates the term, within which it will be submitted.

78. In the case of submission by the Commission during the investigation of violations of common competition rules and consideration of cases of violations of common competition rules on transboundary markets, of the request for information and documents to the authorized bodies of the member States, juridical persons and (or) individuals of a member State, the Commission at the same time sends a copy of such request to the authorized body of the member State in the territory of which the requested authorized body is performing its functions, the business entity (market participant) is registered, or an individual temporarily or permanently resides.

79. If additional information or clarification of information obtained in the execution of the previous request is needed, a second request for submission of information and documents may be sent to the authorized body of a member State.

80. Work with documents submitted to the Commission by the authorized bodies of the member States and containing confidential information shall be conducted in accordance with an international treaty within the framework of the EAEU.

## VII. Introduction of the State Price Regulation of Goods and Services in the territory of the Member States

81. Introduction by the member States of the State price regulation on the goods markets, not in the state of natural monopoly, is carried out in exceptional circumstances that include, inter alia, emergencies and natural disasters, national security issues, provided that the problems cannot be solved by methods having a smaller negative impact on the state of competition.

82. As an interim measure, the member States can introduce State price regulation for certain types of socially important goods on certain territories for a specified period in accordance with the legislation of the member States.

The total duration of application of State price regulation provided for in this paragraph under one type of socially important goods on a certain territory may not exceed 90 calendar days within one year. Extension of this period may be agreed with the Commission.

83. On the introduction of State price regulation provided for in paragraphs 81 and 82 of this Protocol, a member State shall notify the Commission and other member States within a period not exceeding 7 calendar days from the date of adopting the relevant decision.

84. The provisions of paragraphs 81 – 83 of this Protocol, do not apply to State price regulation of all services including the services of natural monopolies, as well as to the sphere of State and goods interventions.

85. The provisions of paragraphs 81 - 83 of this Protocol, except for services listed in paragraph 84 of this Protocol, shall not apply to State price regulation for the following goods:

- 1) natural gas;
- 2) liquefied gas for household needs;
- 3) electric and heat energy;
- 4) vodka, liquor and other alcoholic beverages with strength exceeding 28 per cent (minimum price);
- 5) ethyl alcohol from food raw material (minimum price);
- 6) solid fuel, heating fuel;
- 7) production of nuclear energy cycle;
- 8) kerosene for household needs;
- 9) petroleum products;
- 10) medicals;
- 11) tobacco products.

86. In case if one of the member States addressed to the Commission a request of disagreement with the decision of another member State on introduction of the State price regulation, envisaged in paragraphs 81 and 82 of this Protocol, the Commission may adopt a decision on the necessity of repealing the State price regulation under grounds, stipulated in paragraph 87 of this Protocol.

87. The decision on the necessity of repealing the State price regulation is adopted by the Commission, if such regulation results or may result in restriction of competition, including:

creation of obstacles to enter the market;

reduction on the market of the number of business entities (market participants) not entering one group of persons.

The member State that challenges the decision on the introduction of State price regulation by another member State must prove that the purpose of the introduction of State price regulation can be achieved with another method, having a smaller negative impact on the state of competition.

The Commission adopts a decision on the presence of or on the absence of the necessity of repealing State price regulation within the period, not increasing 2 months

from the date of submission to the Commission of the request envisaged by paragraph 86 of this Protocol.

88. The Commission shall review the application of the member State challenging the decision to introduce the State price regulation by another member State in the order established by it.

89. The decision of the Commission on the necessity of repealing State price regulation, adopted on the basis of paragraph 87 of this Protocol, not later than the day following the day of adopting the decision is sent to the body of the member State, which adopted the decision on introducing State price regulation, and is implemented in accordance with the legislation of the member State, which adopted the decision on introducing the State price regulation.

If the member State does not agree with the decision of the Commission on the necessity of repealing the State price regulation, the issue is submitted for consideration of the Supreme Council. In this case, the decision of the Commission shall not be executed prior to its consideration by the Supreme Council.

APPENDIX 20  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Common Principles and Rules for Regulation of  
Activity of the Natural Monopoly's Subjects

I. General Provisions

1. The present Protocol has been developed according to article 78 of the Treaty on the Eurasian Economic Union (hereinafter - the Agreement ) and is aimed at establishing the legal basis for application of the common principles and general rules of regulation of the activities of entities of natural monopolies of the member States in the areas specified in Appendix No. 1 to the present Protocol.

2. The terms used in the present Protocol shall mean the following:

“internal market” shall mean a market of a member State, in which services provided by natural monopoly entities circulate;

“access to the services of natural monopoly entities” shall mean rendering services related to the sphere of natural monopolies by natural monopoly entities of one member State, to the consumers of the other member State under the conditions no less favorable than those, under which similar service is rendered to the consumers of the first member State, when it is technically feasible;

«natural monopoly» shall mean a state of the services market, under which creation of competitive conditions for satisfying the demand for a particular type of services is impossible or is economically inexpedient due to technological features of producing and rendering services of such type;



«legislation of member States» shall mean the national legislation of each of the member States concerning the spheres of natural monopolies;

«national bodies of the member States» shall mean bodies of the member State that regulate and (or) control the activities of natural monopoly entities;

«rendering services» shall mean rendering the services, producing (realization) the goods, which are an object of the civil circulation;

«consumer» shall mean a subject of the civil law (natural person or legal entity) using or intending to use services rendered by natural monopoly entities;

«natural monopoly entity» shall mean a business entity rendering services in natural monopoly sectors established by national legislation of the member States;

«natural monopoly sector» shall mean a sector of service circulation, referred to the natural monopoly by the legislation, in which the consumer can acquire services of natural monopoly entities.

## II. General Principles of Regulation of Activities of the Natural Monopoly Entities

3. The Principles, by which member States are guided in regulation and (or) control of activities of natural monopoly entities in natural monopoly sectors specified in the Appendices No 1 and 2 to this Protocol, shall-be:

1) observance of the balance of interests of consumers and natural monopoly entities of the member States, that provides an availability of the rendered services and appropriate level of their quality for consumers, effective functioning and development of the natural monopoly entities;

2) promotion of the regulation efficiency aimed at further reduction of the natural monopoly sectors through creation of the conditions for development of competition in these sectors;

3) application of the flexible tariff (price) regulation of the natural monopoly entities taking into account the industry specifics, scales of their activity, market conditions,

medium-term (long-term) macroeconomic and industry forecasts, as well as measures for tariff (price) regulation of such entities, including application of the possibility for establishment of the differentiated tariff, which cannot be based on the principle of the consumer's affiliation (consumer groups) with any of the member States;

4) introduction of regulation in cases, when the analysis of the respective domestic market demonstrates that such market is in the state of natural monopoly;

5) reduction of barriers to domestic markets access by, inter alia, ensuring access to the services rendered by natural monopoly entities;

6) application to the activities of natural monopoly entities of regulating procedures that ensuring independent decisions-making, continuity, openness, objectivity and transparency;

7) obligingness for contracts on regulated services to be concluded by natural monopoly entities and consumers, under the condition of technical feasibility determined according to the national legislation of the member States, unless otherwise is provided by provisions of sections XX and XXI of the Agreement ;

8) ensuring the compliance of the natural monopoly entities with the rules for access to the services rendered by natural monopoly entities;

9) focusing the regulation on a particular natural monopoly entity;

10) ensuring conformity of the established tariffs (prices) to the quality of services in natural monopoly sectors being regulated;

11) consumers' interests<sup>2</sup> protection, including against various infringements by natural monopoly entities related to application of the tariffs (prices) for regulated services;

12) creation of the economic conditions, under which costs reduction, introduction of new technologies, and more effective use of investments become profitable for natural monopoly entities.

### III. Types and Methods of Regulation of the Activity of Natural Monopoly Entities

4. The member States apply the types (forms, techniques, methods, instruments) of regulation of activities of natural monopoly entities of the member States on the basis of the general principles and rules for regulation of natural monopolies established by the present Protocol.

5. The following types (forms, methods, techniques, and instruments) of regulation are applied in regulation of activities of natural monopoly entities:

- 1) tariff (price) regulation;
- 2) types of regulation established by the present Protocol;
- 3) other types of regulation established by the legislation of the member States.

6. The tariff (price) regulation of services rendered by natural monopoly entities, including the establishment of the cost of connection (joining) to the services of natural monopoly entities, can be carried out by:

1) establishment (approval) of the tariffs (prices) for regulated services of the natural monopoly entities by national body, including their limit levels on the basis of the methodology (formula) and rules of its application approved by national body, as well as the relevant control exercised by the national body over the application of the established tariffs (prices) by the natural monopoly entities;

2) establishment (approval) of the methodology and rules of its application by national body according to which, the natural monopoly entity establishes and applies the tariffs (prices), and control exercised by the national body over the tariffs (prices) established and applied by natural monopoly entities.

7. Regulating the tariff (price), the national bodies of member States have the right to apply inter alia the following methods of tariff (price) regulation or their combination according to the national legislation of the member States:

- 1) method of economically justified costs;
- 2) method of indexation;
- 3) method of investment capital profitability;
- 4) method of comparative analysis of the performance efficiency of the natural monopoly entities.

8. The following items are taken into consideration at regulation of the tariffs (prices):

- 1) compensation to the natural monopoly entities of economically justified costs related to carrying out of regulated activity;
- 2) gaining of economically justified profit;
- 3) incentives for natural monopoly entities to reduce costs;
- 4) formation of the tariffs (prices) for services of natural monopoly entities taking into account the reliability and quality of services rendered.

9. The following items can be considered in establishing the tariffs (prices):

- 1) peculiarities of operation of natural monopolies in the territories of member States, including the features of technical requirements and regulations;
- 2) government subsidies and other measures of state support;
- 3) market opportunities, including the level of prices for unregulated market segments;
- 4) territory development plans;
- 5) state taxation, budgetary, innovative, ecological and social policies;
- 6) energy efficiency measures and ecological aspects.

10. While regulating the tariff (price) of services of natural monopoly entity shall provide that separate records of expenses including investments and records of income and committed assets to be maintained for different types of regulated services of natural monopoly entities in cost planning of the natural monopoly entities.

11. The tariffs (prices) for services of the natural monopoly entity can be regulated on the basis of long-term regulation parameters, which can also include the level of reliability and quality of regulated services, dynamics of change in expenses related to the supply of relevant services, rate of return, the terms of return on investment terms, and other parameters.

The long-term regulation parameters obtained by the method of comparative analysis of the performance efficiency of natural monopoly entities can also be applied in tariff (price) regulation of services of the natural monopoly entity.

12. The peculiarities of application of paragraphs 4 - 11 of this Protocol in certain natural monopoly sectors can be determined in the sections XX and XXI of the Agreement .

#### IV. Rules for Ensuring of Access to Services of Natural Monopoly Entities

13. The member States establish in their national legislations the rules of regulation that ensure access to services of natural monopoly entities, as determined by paragraph 2 of this Protocol.

The national bodies of the member States shall provide control over compliance with rules for provision of access of consumers to services rendered by natural monopoly entities and conditions for connecting (joining, use) to them to the consumers.

14. The rules for provision of access to the services of natural monopoly entities to the consumers include:

1) essential terms of the agreements and a procedure for their conclusion and execution;

2) a procedure for determining the existence of technical feasibility;

3) a procedure for providing information on services rendered by natural monopoly entities, on their cost, access to such services, possible sales volumes, technical and technological possibilities for rendering such services;

4) terms for receiving public information that allows the interested persons to compare conditions of circulation of and (or access) to services rendered by natural monopoly entities;

5) a list of information that should not be commercially confidential;

6) a procedure for administration of complaints, applications and settlement of the disputes concerning access to services of natural monopoly entities.

15. The natural monopoly entities of member States are allowed to apply the differentiated conditions of access to their services provided to the consumers of the member States (taking into account the specificity of each separate natural monopoly

sector defined in the Sections XX and XXI of the Treaty), if such conditions are not applied according to the principle of state affiliation [and domicile ] of consumers with any of the member States, and provided that the national legislation of each member State is observed.

16. Without prejudice to the provisions of paragraph 15 of this Protocol, the national legislation of the member States shall not contain the norms establishing the differentiated conditions of access to services of natural monopoly entities for consumers of member States on the basis of state affiliation [and domicile] of the consumers with any of the member States.

17. The specifics of application of paragraphs 13 – 16 of this Protocol in certain natural monopolies sectors, including issues of transit, are defined in sections XX and XXI of the Agreement .

#### V. National Bodies of Member States

18. The national bodies of member States assigned with powers to regulate and (or) control activities of natural monopoly entities according to the national legislation of the member States shall operate in the member States.

The national bodies of the member States shall carry out their activities according to the national legislation of the member States, the Treaty, as well as other international agreements of the member States.

19. The functions of national bodies of member States include:

- 1) tariff (price) regulation of the services of natural monopoly entities;
- 2) regulation of access to services of natural monopoly entities, including establishment of the payment (prices, tariffs, fees) for connection (joining) to the services of natural monopoly entities, in cases provided for in the by national legislations of member States;
- 3) protection of interests of consumers of services of natural monopoly entities;

4) consideration of the complaints, applications, disputes settlement of issues related to the establishment and application of regulated tariffs (prices), and to access to services of natural monopoly entities;

5) consideration, approval or coordination of the investment programs of natural monopoly entities and control over their implementation;

6) ensuring the compliance of the natural monopoly entities with the restrictions provided for in ~~by~~ the national legislations of the member States with regard to classifying information as commercially confidential;

7) control over the activities of natural monopoly entities, including through inspections and in other forms of control (monitoring, analysis, examination);

8) other functions provided for in the ~~by~~ national legislations of member States.

## VI. Competence of the Commission

20. The Commission shall exercise the following powers:

1) to make decision on expansion of the natural monopolies sectors in the member States if the member State intends to qualify as a natural monopoly sector the natural monopoly sector, which is not indicated in the appendixes No 1 and 2 to this Protocol, after the relevant request of the member States to the Commission;

2) to analyze and offer the methods of coordination, development and execution of the decisions of national bodies, concerning the natural monopoly entities;

3) to carry out comparative analysis of the system and practice of regulation of activities of natural monopoly entities activities in member States with preparation of the relevant annual statements and Protocols;

4) to promote the harmonization of regulation in natural monopoly sectors with regard to ecological aspects, energy efficiency;

5) to submit for the consideration of the High Council results of the performed work agreed with the national bodies of the member States and specified in subparagraphs 3 – 4 of this paragraph, as well as agreed with the member States

proposals on establishment of the legislative acts of member States in natural monopoly sectors that are subject to harmonization, and on identification of the sequence of the relevant measures on legislation harmonization in this sector,

6) to carry out the control over execution of section XIX of the Treaty.

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Appendix 1  
to the Protocol On Common Principles and  
Rules for Regulation of Activities of Natural  
Monopoly Entities

**Natural Monopoly Sectors in Member States**

No	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
1.	Transportation of oil and oil products through the backbone pipelines	Services on transportation of oil and (or) oil products through the <del>main</del> -backbone pipelines	Transportation of oil and oil products through the pipelines backbone
2.	Transfer and distribution of electric energy	Services on transfer and (or) distribution of electric energy	Services on transfer of electric energy
3.		Services on technical dispatching of release of electric energy into network and its consumption; services on organization of balancing of electric energy production and consumption; services on maintenance of readiness	Services on operative dispatching management in electric power industry

No	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
		of electric capacity for load carriage (from 1th of January 2016)	
4.	Services rendered by rail transport communications, ensuring movement of common-use transport, train traffic management, railway transportation	Services of main railway networks	Rail transportation

Appendix 2  
To the Protocol On Common Principles and  
Rules for Regulation of Activities of Natural  
Monopoly Entities

**Natural Monopoly Sectors in Member States**

No	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
1.	Gas transportation through the backbone and distributing pipelines	Services on storage, transportation of tank (commercial) gas through connective, backbone gas pipelines and (or) gas distribution systems, operation of group reserve plants, and also transportation of crude (raw) gas through connecting gas pipelines	Transportation of gas through pipelines
2.	Services of transport terminals, airports; Aeronautical services	Aeronautical services services of ports, airports	Services in transport terminals, ports and airports
3.	Public services of electric communications and public postage services	Telecommunication Services provided the absence of competitive communication operator	Services of public electric communication and public post communication

No	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
		<p>owing to technological impossibility or economic inexpediency of provision of such types of services, except for universal services of telecommunications; services on provision of leasing of the cable drainage and other fixed assets technologically connected with <del>connection</del> attaching of telecommunication networks to the telecommunication network for common use; public post services</p>	
4.	Transfer and distribution of thermal energy	Services on production, transfer, distribution and (or) supply of thermal energy	Services on thermal energy transfer
5.	Centralized water supply and water drainage	Water supply and (or) water drainage services	Water supply and water drainage with use of centralized systems, systems of communal infrastructure

No	The Republic of Belarus	The Republic of Kazakhstan	The Russian Federation
6.			Services on use of an infrastructure of internal waterways
7.		Services of railway lines with objects of railway transportation under concession Agreements	
8.		Entry line (approach route) services	

ANNEX 21  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L

on Ensuring the Access to Services of Subjects of Natural Monopolies in Electric Power  
Industry, Including the Basics of Pricing and Tariff Policy

1. According to Articles 81 and 82 of the Eurasian Economic Union Treaty (hereinafter - Treaty) this Protocol defines the uniform principles and rules for ensuring the access to services of subjects of natural monopolies in electric power industry.

2. The terms used in this Protocol, shall have the following meanings:

«domestic electric energy (power) demand» - are the volumes of electric energy (power) necessary for consumption in the territories of relevant member States;

«access to services of subjects of natural monopolies in electric power industry area» - is the possibility of the subject of domestic market of one member State to take an advantage of the services of subjects of natural monopolies in electric power industry in territory of other member State;

«replacement of electric energy (power)» - is interconnected and simultaneous delivery of equal capacities of electric energy (power) to the electric power system and then through the different points of delivery located on the border (borders) of member State;

«interstate transmission of electric energy (power)» - provision of services for electric energy (power) transmission and (or) replacement by the authorized organizations of member States. Depending on the legislation of member State, relevant relations are registered by the Contract for the provision of transferring (transit) or other civil-law Contracts, including the Contract for purchase and sale of electric energy (power);

«common electric power market of member States» - is a system of relations between subjects of domestic markets of electric energy of member States connected with

purchase and sale of electric energy (capacity) and accompanying services, operating on the basis of the general rules and relevant Contracts;

«electric energy (power) transmission» - is the maintenance of the electric energy (power) flows generated in territory of one member State through networks of other member State between the points of delivery located on its border (borders);

«subjects of domestic market of electric energy» - are the persons, who are subjects of the market of electric energy (power) of member State according to the legislation of this member State, carrying out their activity in electric power industry, including generation of electric energy (power), acquisition and sale of electric energy (power), distribution of electric energy, power supply of consumers, provision of services for electric energy (power) transmission, operating and dispatching management in electric power industry, sale of electric energy (power), purchase and sale of electric energy;

«services of the subjects of natural monopolies in electric power industry» - are services for electric energy transmission through electric network, operative and dispatching management in electric power industry and other services referred to the area of natural monopolies according to the legislation of member States.

3. The interaction of the member States in electric power industry shall be based on the following principles:

the use of technical and economic advantages of parallel operation of the electric power systems of the member States;

avoidance of economic damage during parallel work;

use of the mechanisms based on market relations and fair competition as one of the basic tools for formation of steady system to meet the demand for electric energy (power);

gradual formation of the general electric power market of member States on the basis of in parallel operating electric power systems of member States, taking into account the features of available models of the electric energy (power) markets of member States;

gradual harmonization of the legislation of member States in electric power industry;

harmonization of technical regulations and rules.

The activity of subjects of natural monopolies in electric power industry shall be regulated on the basis of single principles, rules and methods defined in section XIX of the EAEU Treaty.

4. The member States shall facilitate coordination of programs for electric power development of their states for long-term maintenance of successful cooperation in electric power industry area.

5. Formation of common electric power market of the EAEU shall be carried out on the basis of the following principles:

cooperation based on equality, mutual benefit and prevention of economic damage to any of member States;

balancing economic interests of producers and consumers of electric energy as well as the other subjects of common electric power market of member States;

gradual harmonization of the legislation of member States in the sphere of electric power industry, including in terms of disclosure of the information by subjects of common electric power market of member States;

priority use of mechanisms based on market relations and fair competition for formation of stable system to meet the demand for electric energy (capacity) in competitive activities;

easy access to services of subjects of natural monopolies in the sphere of electric power industry within available technical capability under condition of priority use of specified services for internal needs of member States during interstate transmission of electric energy (power);

gradual transformation of the structure of national vertically integrated companies in the sphere of electric power industry to detach competitive and monopolistic activities;

development of interstate relations in sphere of electric power industry of member States in accordance with agreed model of common electric power market of member States;

gradual formation of common electric power market of member States based on operating in parallel electric power systems of member States taking into account the features of current models of the electric power markets of member States;



use of the technical and economic advantages of the parallel operation of electric power systems of member States in accordance with mutually agreed conditions of parallel operation;

ensuring the access of electric energy producers and consumers to the electric energy markets of member States taking into account interests of national economies at relevant stage of integration of the markets;

electric energy trade between subjects of member States taking into account power safety of the member States.

6. Within the available technical capability, the member States shall provide easy access to the services of subjects of natural monopolies in the sphere of electric power industry under condition of priority use of specified services for compliance with the internal electric energy (power) requirements of member States on the basis of the following principles:

equality of the requirements in relation to the subjects of domestic market of electric energy (power) established by the legislation of member State on the territory, where such services are rendered;

provision of an access to the services of natural monopolies in electric power industry under condition of priority use of such services for meeting domestic demands of member States taking into account the legislation of member States;

maintenance of appropriate technical condition of the electric power objects influencing the modes of parallel operation of electric power systems of member States when rendering of the services by subjects of natural monopolies in the sphere of electric power industry;

Contractual relations arising between the subjects of domestic markets of electric energy of member States;

provision of services by subjects of natural monopolies of member States in electric power industry on non-gratuitous basis.

7. The interstate transmission of electric energy (power) shall be provided on the basis of the following principles:

1) interstate transmission of electric energy (capacity) through an electric power system of adjacent member State shall be provided by member States within available technical capability under condition of priority compliance with electric energy (power) internal needs of member States;

2) technical capability of interstate electric energy (power) transmission shall be based on the following priority:

meeting domestic demand for electric energy (power) of member State, through electric power system of which, is planned to implement the interstate transmission;

ensuring of the interstate electric energy (power) transfer from one part of the electric power system of member State to its other part through electric power system of adjacent member State;

ensuring of the interstate transmission of electric energy (power) through the electric power system of the member State from electric power system of one member State to the electric power system of other member State;

ensuring of the interstate transmission of electric energy (power) through the electric power system of the member State with a view of performance of the obligations concerning the subjects of electric power industry of the third states;

3) in interstate transmission of electric energy (power) the authorized organizations of member States are guided by principle of compensation of cost of the interstate transmission of electric energy (power) proceeding from the legislation of member State;

4) interstate transmission of electric energy (power) with a view of performance of the obligations with reference to the subjects of electric power industry of the third states, is regulated on a bilateral basis taking into account the legislation of the relevant member State.

8. In order to ensure the unhindered interstate transmission of electric energy (power) through electric power systems, the member States shall carry out a complex of the agreed preparatory measures, namely:

Prior to the beginning of the calendar year of electric energy (power) supply, the authorized member States shall declare the planned volumes of electric energy (power), which are assumed to be transmitted between the states, to account them in the national

forecasting balance sheets of electric energy (power) production and consumption, including to account such deliveries in calculation of the tariffs of the services, rendered by subjects of natural monopolies;

On the basis of the calculations of the planned cost of interstate transmission of electric energy (power) the organizations authorized by member States shall conclude the Agreements in the execution of the reached agreements.

In order to maintain the unhindered interstate transmission of electric energy (power) through electric power systems of the member States, authorized bodies of the member States shall use the single interstate electric energy (power) transmission methodology between member States, including the procedure of definition of the technical conditions and volumes of interstate transmission of electric energy (power), and also agreed pricing approaches for the services connected with interstate transmission of electric energy (power) described in Appendix of this Protocol.

The organizations defined according to the legislation of member States shall provide the interstate transmission of electric energy (power) through territory of the state according to the above Stated Methodology.

9. The interstate transmission of electric energy (power) and operation of the facilities of the electric network economy, which are necessary for interstate transmission of electric energy (power) shall be ensured according to the standard legal as well as to normative and technical documents of the member State, rendering the services connected with ensuring of the interstate transmission of the electric energy (power).

10. In case if the interstate transmission of the electric energy (power) is refused, the organizations authorized by member States shall ensure the submission of the evidencing materials about reasons for the refusal.

11. The prices (tariffs) on services of subjects of natural monopolies in electric power industry shall be formed according to the legislation of member States.

The tariffs on services of subjects of natural monopolies in electric power industry at common electric power market of member States shall not exceed the similar internal tariffs for subjects of the electric energy in the domestic market.

12. The relations on interstate transmission of electric energy (power) shall be built taking into account other applicable international Agreements.

Appendix to the Protocol on Ensuring the  
Access to Services of Subjects of Natural Monopolies  
in Electric Power Industry,  
Including the Basics of Pricing and Tariff Policy

Methodology

for Interstate Transmission of Electric Energy (Power) between Member States

1. The general provisions of the procedure for submission of the applications and formation of the annual forecasted volumes of interstate transmission of the electric energy (power) to be included into forecasted balances sheets of electric energy (power) production and consumption, including those ones, which are taken into account in calculating the tariffs for the services of subjects of natural monopolies.

1.1. On the territory of the Republic of Belarus.

1.1.1. The annual forecasted volumes of interstate transmission of electric energy (power) (hereinafter - IST) with regard to national electric network of the Republic of Belarus shall be defined by the organization authorized to such transmission on the basis of the submitted application.

1.1.2. The application for forthcoming calendar year shall be submitted not later than 4<sup>th</sup> of April, previous year. The annual volume of IST and maximum capacity with breakdown by months shall be indicated in the application.

1.1.3. During consideration of the application, authorized organization of the Republic of Belarus shall be guided by value of available technical capability determined according to this Methodology.

If the declared value of IST is more than the value of available technical capability as a whole for a year or in any month of the year authorized organization of the Republic of Belarus shall direct a motivated refusal to the organization, which has submitted an application.

1.1.4. The announced volumes of IST agreed upon by the authorized organization of the Republic of Belarus shall be attached to the Agreement on transfer of the electric power and taken in account when calculating the tariffs for electric power transmission services.

1.1.5. The volumes of electric energy, which are assumed for IST, can be corrected as agreed by authorized organization of the member States till 1<sup>st</sup> of November, a year proceeding to the year of the planned IST.

1.2. In the Republic of Kazakhstan.

1.2.1. The annual forecasted volumes of IST through national electric network of the Republic of Kazakhstan shall be defined on the basis of the application for IST, submitted to the system operator of the Republic of Kazakhstan by authorized organization.

1.2.2. The application for forthcoming calendar year shall be submitted not later than 1<sup>st</sup> of April, previous year. The annual volume of IST with breakdown by months and indication of points of reception and points of delivery of the electric power on the border of the Republic of Kazakhstan shall be indicated in the application.

1.2.3. During consideration of the application, the system operator of the Republic of Kazakhstan shall be guided by value of the available technical capability defined according to this Methodology. When the declared value of IST is more than a value of available technical capability as a whole for a year or in any month of the year, the system operator of the Republic of Kazakhstan shall direct a motivated refusal to the organization, which has submitted an application.

1.2.4. The declared volumes of IST coordinated by the system operator of the Republic of Kazakhstan, shall be executed as Appendix to the Agreement on the transmission of the electric power and considered in calculation of the tariffs for services on electric power transmission.

1.2.5. After formation of the forecasted balance sheet of the electric power and power through the Single Power System of the Republic of Kazakhstan (hereinafter - SPS of Kazakhstan) till 15<sup>th</sup> of October, the year preceding to the planned one, the delivery volumes of electric energy shall be defined and coordinated with subjects of the wholesale market under bilateral interstate Agreements.

1.2.6. The volumes of electric energy assumed for IST, can be corrected under the offer of the subjects authorized for organization and implementation of IST till 1<sup>st</sup> of November, a year proceeding to the year of planned delivery.

1.3. On the territory of the Russian Federation.

1.3.1. According to the Procedure for formation of summary forecasted balance within the limits of EAEU of Russia for subjects of the Russian Federation, the authorized organization (organization on management of the single national (Russian) electric network (hereinafter - SNEN) of the Russian Federation) till 1<sup>st</sup> of April, the year preceding to the year of planned delivery, directs the offers coordinated with the authorized organizations of member States, which are engaged in administration of national electric network, to the Federal Service on Tariffs of the Russian Federation (FST of Russia) and to the system operator of SEN of Russia.

1.3.2. The agreed offers shall be considered by FST of Russia and considered in formation of the summary forecasted balance sheet of electric energy (power) production and consumption among subjects of the Russian Federation for the next calendar year within the time provided by the legislation of the Russian Federation.

1.3.3. The volumes of electric energy and power assumed for IST, confirmed as a part of indicators of summary forecasted balance sheet of electric energy (power) production and consumption among subjects of the Russian Federation for year of delivery, shall be considered in calculation of the prices (tariffs) for services of natural monopolies in electric power industry.

1.3.4. The volumes of electric energy and power assumed for IST, can be corrected under the proposal of organization on management of SNEN provided the approval of the authorized bodies (organization s) of member States has been obtained till 1<sup>st</sup> of November, the year preceding to the year of planned delivery, with relevant updating of the established prices (tariffs) for services of the natural monopolies in electric power industry.

2. Procedure for determination of technical capability and planned volumes of IST on the basis of planning of annual, month, day and intraday operating modes of electric

power systems, including the provisions, defining the functions and powers of the planning coordinator.

## 2.1. Terminology.

For section 2 of this Methodology, the following concepts shall be used:

Controllable section - set of electric transmission lines (ETL) and other elements of electric network defined by dispatching centers of system operators of electric power systems of the member States, through which the power cross flows are supervised with a view of maintenance of stable work, reliability and survivability of electric power systems.

Maximum admissible power flow is greatest flow in the section of the network, meeting all requirements of normal modes.

Interstate section-a point or group of points of the delivery, located at interstate ETL (s), connecting electric power systems (separate energy regions) of the adjoining states, technologically caused by tasks of planning and management of electric power modes of parallel work, defined by system operators of electric power systems of member States.

Other used concepts have the meaning, defined by the Protocol on providing an access to services of subjects of natural monopolies in electric power industry, including bases of pricing and tariff policy (Annex 21 to the EAEU Treaty).

## 2.2. General Provisions.

### 2.2.1. Issues to be addressed at planning stages:

Annual planning: check of technical capability for performance of the declared volumes of deliveries of the electric energy (power) between member States and IST between member States, considered in forecasted balance sheets of electric energy (power) production and consumption taking into account the annual planned maintenance schedules of the electric network equipment, which are limiting the export and import sections, and their updating if necessary;

monthly planning: check of technical capability for performance of the declared volumes of deliveries and IST between member States, considered in annual forecasted balances of electric energy (power) generation and consumption taking into account the



monthly planned maintenance schedules of the electric network equipment limiting its export-import sections, and their updating if necessary;

daily planning and intraday updating of the modes: check of technical capability for performance of declared hourly volumes of deliveries and IST between member States, declared a day prior to such delivery, taking into account a real scheme and regime situation, planned, unplanned and emergency switching-off of the electric network equipment, limiting the export and import sections, volumes of deliveries and IST between member States.

2.2.2. Planning (calculation of execution ability of the planned volumes of IST between member States is carried out between SEN of Russia and SEN of Kazakhstan and between SEN of Russia and United Energy System of Belarus (UES of Belarus) with use of calculation model of in parallel operating electric energy systems (hereinafter - calculation model).

2.2.3. The calculation model is a mathematical model of technologically interconnected parts of SEN of Russia, SEN of Kazakhstan and UES of Belarus in the volume necessary for planning, and including the description of:

- columns and parameters of equivalent electric network circuit;
- active and reactive central loadings;
- active and reactive generation in units;
- minimum and maximum active and reactive generation capacities;
- network restrictions.

2.2.4. The calculation model is formed on the basis of the electric power systems, which shall be agreed upon by system operators of member States, equivalent circuit, as a rule, for the basic modes conforming to the agreed hours of winter maximum and minimum of loads, and summer maximum and minimum of loads (basic calculation schemes). For characteristic scheme and regime situations, maximum allowable overflows in controllable interstate sections shall be indicated, and also in internal controllable sections if they essentially affect the interstate deliveries (exchanges).

2.2.5. The planning coordinator is the system operator of SEN of Russia.

2.2.6. The structure of calculation models and made actual information for each of planning stages, including lists of energy facilities and electric power systems (equivalents of electric power systems), included into calculation model, order and time regulation of their formation and actualization, formats and way of data exchange for planning of annual, month, day and intraday operating modes of electric power systems are established by the documents confirmed by system operator of SEN of Russia and organization on management of SNEN with organization, executing the functions of system operator of UES of Belarus, and system operator of SEN of Kazakhstan.

2.3. Powers and authorities of planning coordinator and other electrical system operators from member States.

2.3.1. Planning coordinator performs:

Development of basic design models;

Information exchange with organizations that stand as system operators for UES of Belarus and Kazakhstan for planning purposes;

Calculations of electrical and energy modes based on the data received from the organization carrying out the functions of the system operator for UES of Belarus and Kazakhstan for the purposes of planning;

Adjustment of the interstate flow between electrical systems (parts of electrical systems) of member States in case if calculation revealed the unreliability of electrical modes or the excess of maximum allowed power flow in controlled sections of design model during determined scope of interstate transmission, together with priority principles outlined in subparagraph of paragraph 4 of the Protocol on allowing the access to services of natural monopoly entities in the area of electrical energy industry including basic principles of pricing and tariff policy (Annex 21 to the EAEU Treaty):

Provision of member State internal necessities with planning the interstate transmission through electric energy system;

Providing the interstate transmission of electric energy (power) from one part of the system to another part of neighboring member State;

Providing the interstate transmission of electric energy (power) from one part of the system to another part of another member State;

Providing the interstate transmission of electric energy (power) through the power system of a member State in order to fulfill the obligations in respect of electric power industry of Third Countries outside the EAEU;

Starting the organization of the results of the above calculation of functional UES of Belarus and Kazakhstan.

2.3.2. If the calculation revealed the unrealisation of electric modes or exceeding of maximum allowable flows in the controlled sections of the design model, the planning coordinator shall direct the quantities of necessary adjustments of net power flows (balances) of electric power system to the organization, functioning as the system operator of UEC of Kazakhstan and Belarus and management organization of Federal Grid Company.

The organization that performs the functions of the system operator of UEC of Kazakhstan and Belarus and organization management of Federal Grid Company performs the adjusted shipments of electricity (power) for all Agreements, including interstate transmission on the basis of the above-mentioned priority, or takes other measures to prevent violations of allowable flows in the controlled sections identified on the basis of calculations of planning coordinator.

The information about the adjusted contractual volumes of electricity (power) supplies for all Agreements, including interstate transmissions among member States, shall be provided by the organization that acts as the system operator of UEC of Kazakhstan and Belarus and management organization of Unified National Power Grid to subjects of internal electricity markets and members under the Agreements.

2.3.3. Planning Coordinator has the right in the case of non-receipt from the organization performing the functions of the system operator of UEC of Belarus and Kazakhstan of the actual data for planning or receiving data containing technical errors or deliberately false data use of substitute information, content and application procedure which establishes documents approved by organization that acts as the system operator of UEC of Belarus, Kazakhstan and Russia.

2.4. Annual planning.

2.4.1. Annual planning shall be performed in time and in manner determined by the organization that acts as the system operator of UEC of Belarus, Kazakhstan and Russia.

2.4.2. The organization that performs the functions of the system operator of UEC of Belarus, Kazakhstan and Russia forms the draft schedules for repair of electrical equipment for the planned calendar year and submits them to the planning coordinator. Planning Coordinator shall coordinate the schedule for the repair of electrical equipment for the planned calendar year, and send it to the organization performing the functions of the system operator of UEC of Belarus and Kazakhstan and management organization of UNPG of Russia. List of power supply facilities and repairs shall be agreed in the annual (and monthly) schedule repairs, and temporal regulation of its formation is established by the organization that acts as the system operator of UEC of Belarus, Kazakhstan and Russia.

2.4.3. Organization that performs the functions of the system operator of UEC of Belarus and Kazakhstan transmits scheduling information to coordinator for the annual planning for the respective national electricity system (consumption, generation, trade balance, repairs of network equipment), and they formed in the basis of the forecast balance of electricity, power for an hour maximum typical workday.

2.4.4. Scheduling result shall be refined predictive value trade balance UEC of Russia – UEC of Kazakhstan and UEC of Russia – UEC of Belarus.

2.4.5. Planning Coordinator shall calculate modes and sends them to the organization performing the functions of the system operator of UEC of Belarus and Kazakhstan.

## 2.5. Monthly planning.

2.5.1. Monthly planning shall be performed in time and manner determined by the organization that acts as the system operator of UEC of Belarus, Kazakhstan and Russia in the same way as annual planning, the exchange of data and results on a monthly basis.

## 2.6. Daily and intra-day planning.

2.6.1. Daily and intra-day planning shall be performed in the time and manner determined by the organization that acts as the system operator for UEC of Belarus, Kazakhstan and Russia.

2.6.2. Daily the organization, performing the functions of the system operator for UEC of Belarus and Kazakhstan shall provide data for planning coordinator with the updates of the calculation model for the planned night (hereinafter – days X) as the sets of 24 hour actual data (from 00:00 to 24:00), which include:

Planned repairs of electric equipment elements from 220 kV power systems and above;

Hourly schedules for consumption and generation of electricity by a total system (including separate power districts established by the organization that acts as the system operator for UEC of Belarus, Kazakhstan and Russia in the formation of the design model);

Hourly schedules of trade balance (surplus flows for power system is its deficit).

UNGP organization management shall provide summarized values that shall be agreed with the organization, performing the functions of the system operator for UEC of Belarus and Kazakhstan for hourly schedules of delivery volumes of electric power between Russia, Kazakhstan and Belarus for all types of the Agreements, including interstate transmission among the member States.

2.6.3. If the data for actualization of the calculation model is not transferred by the organization that acts as the system operator for UEC of Belarus and Kazakhstan to planning coordinator, he shall use the substitute information that was set by organization that acts as the system operator for UEC of Belarus, Kazakhstan and Russia by Agreement on the formation of the computational model.

2.6.4. Planning coordinator shall perform updating of the estimated model and the execution of calculations of electric modes.

2.6.5. Planning Coordinator shall calculate mode and transmit the calculation results to the organization that acts as the system operator for UEC of Belarus and Kazakhstan in a consistent format.

2.6.6. If the requested values of supplies and interstate transmissions between member States are not implemented, the organization that performs the functions of the system operator for UEC of Belarus and Kazakhstan and UNGP organization management

shall take measures to adjust the volume of deliveries and interstate transmission, with the priority, as defined in paragraph 2.3.1 of this Methodology.

2.6.7. If as a result of unpredictable changes in energy consumption and/or circuit regime conditions and/or changes in the conditions of supply the Agreements adjustments are required, the planned delivery volumes and interstate transmission between the member States, within the operational day, the organization, that performs the functions of the system operator for UEC of ECO of Belarus and Kazakhstan, shall provide the planning coordinator with the following information:

data for the actualization of calculation model for the current day in the form of our data set for the remaining hours of the day in the amount of days X corresponding to the information transmitted for the purposes of planning the day ahead;

request notes for changes to the proposed capacity planning of deliveries and interstate transmission between member States.

2.6.8. For each time step within twenty four hour period they establish a critical time for data transmission (“gate closing time”) and communicating the results of calculations. Data transfer after the “gate closing time” shall not be allowed. Planning coordinator performs the actualization of the estimated model and the execution modes of electrical calculations for the remaining hours of the day X.

2.6.9. The result is a refined planning of hourly schedule of deliveries and interstate transmission among the member States for the remaining hours of the day X. In case of inability to perform routine in hourly charts revised due to changes in circuit-regime conditions after intradaily time adjustments, the changes in the supply and interstate transmission between member States on the conditions permitted providing emergency assistance or forced supply of electricity under the relevant special Agreements for the supply of electricity between authorized economic subjects of the member States.

3. A list of the subjects of the member States authorized for the organization and implementation of interstate transmission indicating the functions of each organization in the framework of the transmission.

3.1. On the territory of the Republic of Belarus.

3.1.1. On the territory of the Republic of Belarus the organization and implementation of interstate transmission shall remain with the control function of UEC of Belarus and organization that acts as the system operator for UEC of Belarus while performing the following functions:

provision of services for the transmission of electrical energy by transmitting electrical network (organizations subordinate to the organization performing the control functions of UEC of Belarus, with the overall coordination of the organization performing the control functions of UEC of Belarus);

provision of services for technical control of interstate transmission (the organization that performs the functions of the system operator of UEC of Belarus);

interaction with power systems of neighboring countries to manage the parallel operation and sustainability (the organization that performs the functions of the system operator of UEC of Belarus).

3.2. On the territory of the Republic of Kazakhstan.

3.2.1. On the territory of the Republic of Kazakhstan organization and implementation of interstate transmission lies with the system operator that performs the following functions:

provision of services for power transmission through the National Power Grid;

provision of services for technical control supply to the grid and electric energy consumption;

services on balancing of the production - consumption of electric energy;

interaction with power systems of neighboring countries for the management and sustainability of parallel operation.

3.3. On the territory of Russian Federation.

3.3.1. Provision of interstate transmission between member States through the UEC of Russia in accordance with the legislation of the Russian Federation shall assume the implementation of a set of actions related to:

3.3.1.1. Provision of services for operational dispatch management in the power sector, including the management of parallel operation of UEC of Russia and electric

power systems of other member States, to ensure the replacement of electric energy (power) and coordinated planning;

3.3.1.2. Transmission services (movement) of electric energy on the unified national (All-Russia) electric grid, including the interstate transmission between member States;

3.3.1.3. Features turnover of electricity and power on the wholesale electricity market of the Russian Federation, including, if necessary, assurance of a coherent and simultaneous delivery of equal volumes of electric energy (power) in the UES of Russia and from there through different delivery point located at the border (borders) Russian Federation with the member States.

3.3.2. Interstate transmission among member States provided the following authorized organizations:

3.3.2.1. System Operator of Russia - in terms of organization and management of parallel operation with UEC of Russia, Kazakhstan and Belarus;

3.3.2.2. Organization for UNPG management - in terms of provision of services related to the movement (using the principle of substitution) of electric energy by interstate transmission between member States through the UEC of Russia and the organization of parallel work with UEC of Russia, Kazakhstan and Belarus, including interaction with foreign authorized organizations planning interstate transmission (annual, monthly, hourly), the diversity of actual hourly volumes of electricity moved through the state border of the Russian Federation and the member States from the adjusted planned volumes of commercial Agreements; determining the hourly deviations of actual volumes moved across the border between the Russian Federation and the member States; implementation of commercial metering to delivery points located at the common borders of the member States;

3.3.2.3. Commercial operator - the organization conducting the functions of wholesale trade of electric energy, capacity and other admitted to trading on the wholesale market in goods and services;

3.3.2.4. Organization responsible for providing services for the calculation of the requirements and obligations of participants in the wholesale market;



3.3.2.5. Commercial agent - participant in the wholesale electricity market and power engaged in export-import operations, regarding the organization of access to participation amount of electric energy (power), declared for interstate transmission between member States in relation to the wholesale electricity market and the normalization of relations, and associated with deviations of the actual balance of the planned flow.

4. List of components that shall be included in the tariffs of natural monopolies in the implementation of interstate transmission

4.1. On the territory of the Republic of Belarus.

4.1.1. Costs  $C_{cet}$  for interstate transmission services for network transmission of the Republic of Belarus (hereinafter - NT), included in the tariffs of natural monopolies in the implementation of interstate transmission between member States, shall be calculated using the following formula:

$C_{cet} = C (1+IF) (1+I) (1+T)$ , where:

C – overall maintenance and operation cost of the NT attributable to interstate transmission between member States, determined in the prescribed manner by the authorized state body;

IF – share of contributions to the Innovation Fund;

I – share of income deductions in accordance with legislation of the Republic of Belarus;

T – share of taxes deductions;

Total 3 costs include: operation and maintenance cost; wages; amortization; other costs (supporting materials, side energy, social security contributions, etc.); compensation costs for electric energy losses.

4.1.2. Tariff for interstate transmission networks for UEC of Belarus shall be calculated by the formula:

$T = C_{cet} / V_t$ , where:

T – tariff for interstate transmission networks of UEC of Belarus;

$V_t$  – total volume of UEC between member States on networks of UEC of Belarus.

4.2. On the territory of the Republic of Kazakhstan.

4.2.1. In accordance with the legislation of the Republic of Kazakhstan tariff for electricity transmission, including interstate transmission among member States, used for consumers, to exercise the power transmission, including interstate transmission to the national power grid networks (hereinafter - NPG) shall be calculated using the following formula:

$T=(C+P)/W$  (KZT/kWh), where:

T – tariff for electricity transmission, including interstate transmission between member States applied for consumers which transfer electrical energy, including interstate transmission networks of NPG (KZT/kWh);

C – total costs of NPG of the Republic of Kazakhstan for the transmission of electrical energy, including interstate transmission determined in accordance with the legislation (million tenge);

P – profit level necessary for the efficient functioning of the NPG in the provision of services for the transmission of electrical energy, including interstate transmission, as defined in the legislation of the Republic of Kazakhstan (million tenge);

$W_{\text{sum}}$  – total volume of electric energy transmission declared under treaties and contracts (million kWh).

4.2.2. In accordance with the legislation of the Republic of Kazakhstan when calculating the tariff for the transmission of electric energy in the NPG tariff revenue shall include the total cost for the transmission of electric energy on the NPG and the level of profit necessary for effective functioning in the provision of services for the transmission of electric energy (determined on the basis of involvement of assets).

Costs included in the tariff for electricity transmission shall be determined in accordance with the laws of the Republic of Kazakhstan.

4.3. On the territory of the Russian Federation.

4.3.1. General provisions.

In accordance with the legislation of the Russian Federation tariff for the provision of electricity transmission on UNPG installed as 2 rates: rates on electric grid maintenance and rates to compensate the losses of electric energy in the UNPG.

Similarly, costs included in the tariff for the provision of interstate transmission between the member States through the UEC of Russia shall be divided into component costs for tariff for interstate transmission between member States on the maintenance of UNPG and component costs for tariff for interstate transmission among member States for compensation for electric energy and power in the UNPG losses.

4.3.2. The definition of expenses included in the tariffs of natural monopolies in the implementation of interstate transmission between member States.

4.3.2.1. List of components costs for tariffs of interstate transmission between member States on the maintenance of the UNPG.

Power claimed to interstate transmission between member States shall be paid by the rate on the maintenance of UNPG. The power shall be defined in the "exit point" flow of electricity from the electric power system of the state through the electric grid which is the interstate transmission between member States.

When calculating the rates on the facilities of UNPG the following shall be established by national regulatory authority for the relevant settlement period economically reasonable expenses:

- Operating expenses;
- uncontrollable costs;
- return on invested capital (depreciation) on investments;
- return on invested capital.

4.3.2.2. List of components costs tariff for interstate transmission among member States to compensate for losses of electricity and power in the UNPG.

Costs to compensate for losses of electricity and power in the UNPG are determined based on the standard losses of electric energy in the UNPG, reduced by the amount of electric energy losses accounted for in equilibrium prices for electricity and purchase prices of electricity and power in the wholesale market at the end of each settlement period for DPC, an appropriate "exit point" flow of electricity from the electric power system of the state, through the electric grid which is the interstate transmission between member States with regard to the cost of infrastructure services of organizations relevant to national market.

5. List of components associated with the implementation of interstate transmission that shall not be included in tariffs of natural monopolies.

5.1. On the territory of the Republic of Belarus.

In Belarus, the system costs  $C_s$  shall include the cost approved by the authorized state body of maintaining the reserve generating capacity to ensure the interstate transmission between member States, defined by the proportion of the total interstate transmission amount of power transmitted through networks of UEC of Belarus, as well as services for technical dispatching of interstate transmission between member States.

5.2. On the territory of the Republic of Kazakhstan.

When developing the tariff for interstate transmission between member States, the costs shall not be taken into account in accordance with the law of the Republic of Kazakhstan.

5.3. On the territory of the Russian Federation.

In order to ensure the replacement of electric energy (power) the amount of electricity to be transmitted between the member States should be considered in the wholesale market price when submitting bids in competitive selection of price bids on the day-ahead market prices and determining the proportion of system costs associated with a coherent and simultaneous delivery of equal volumes of electric energy (power) at different points of delivery at the frontier (borders) of UEC of Russia. System costs shall include the following components:

5.3.1. Component associated with the compensation of the cost of electric power load loss and system constraints in the implementation of interstate transmission between the member States through the UEC of Russia (nodal prices difference):

$$S^1_m = \sum_{hcm} (\max[\lambda_h^{\text{ext}} - \lambda_h^{\text{entr}}; 0] \times V_h^{\text{IST}}), \text{ where}$$

$\lambda_h^{\text{ext}}$  – price resulting of a competitive selection of price bids in the day-ahead at hour h in m months on the section of exports and imports, complying with the "exit point" electricity flow of UEC of Russia in the framework of the interstate transmission;

$\lambda_h^{\text{entr}}$  – price resulting of a competitive selection of price bids in the day-ahead hour  $h$  in  $m$  months on the section of exports and imports, the corresponding "entry point" of electricity flow in UEC of Russia in the framework of the interstate transmission;

$V_h^{\text{IST}}$  – volume of interstate transmission through UEC of Russia at  $h$  hour in the  $m$  month.

5.3.2. Component related to the availability of reserve generation capacity to implement modes of UEC of Russia, providing the volume of interstate transmission through UEC of Russia in the hour  $h$  of the month  $m$ :

$$S_m^2 = \text{Peak}_m \times (K_{\text{plan.FPTZ}}^{\text{res}} - 1) \times C_{\text{FPTZ}}^{\text{prelim.}}, \text{ where:}$$

$\text{Peak}_m$  – peak power corresponding to the maximum claimed amount hour of interstate transmission in the month  $m$ ;

$K_{\text{plan.FPTZ}}^{\text{res}}$  – planning reserve ratio in FPTZ, accounted by the system operator in competitive procedure for the relevant year;

$C_{\text{FPTZ}}^{\text{prelim.}}$  – preliminary price of competitive selection for consumers in FPTZ of the corresponding year (determined by the system operator in accordance with the rules of the wholesale market of electric energy and power);

FPTZ – free power transfer zone, to which assigned delivery point is corresponding to the "exit point" of electricity from UEC of Russia in the implementation of interstate transmission.

In determining the value of the interstate transmission it is also considered that the difference between the planned prices for buyers, as determined is in the competitive capacity of the free power transfer zones (groups of free power transfer zones) corresponding to the points of "entry" and "exit" of interstate transmission.

6. Requirements for Registration of Interstate Transmission Agreement in Accordance with the Laws of the Member States.

6.1. On the territory of the Republic of Belarus.

Interstate transmission between member States through the power system of the Republic of Belarus is subject to agree on the amount of electricity and power, alleged interstate transmission in accordance with section 1 of paragraphs 2.4, 2.5 and 2.6 of

section 2 of this methodology and instruments for interstate transmission authorized by the organization of the Republic of Belarus.

Cost of services on the interstate transmission for each Agreement shall be calculated using the following formula:

$$C_{IT} = Z_{cet} + Z_{syst}$$

### 6.2. On the territory of the Republic of Kazakhstan.

On the territory of the Republic of Kazakhstan, interstate transmission between member States on the basis of the Agreements for the provision of electric power transmission shall be concluded on a standard form approved by the Government of the Republic of Kazakhstan. In this case, the implementation of interstate transmission treaties may be considered a particular transmission.

### 6.3. On the territory of the Russian Federation

Interstate transmission between member States through the UEC of Russia shall be carried out in the presence of the following Agreements:

6.3.1. The Agreements with a commercial agent of the authorized organization of the Republic of Belarus or the Republic of Kazakhstan in order to ensure access to services of natural monopolies and interrelated and simultaneous delivery of equal volumes of electric energy (power) declared for the implementation of interstate transmission in different delivery points at the border (borders) of UEC of Russia.

Cost of interstate transmission between member States through UEC of Russia in m month shall be calculated in such Agreements using the following formula:

$$Q_{m}^{IT} = Q_{m}^{FGC\_IST} + Q_{m}^{SO\_IST} + Q_{m}^{UEC\_IST}, \text{ where:}$$

$Q_{m}^{FGC\_IST}$  – cost of service of organization for Federal Grid Company management paid in accordance with the legislation of the Russian Federation;

$Q_{m}^{SO\_IST}$  – the cost of services of the system operator paid in accordance with the legislation of the Russian Federation;

$Q_{m}^{UEC\_IST}$  – cost of services associated with activities in the wholesale market of electric energy (power) that accompany the interstate transmission through United Energy System of Russia in m month.

$$Q_{m}^{UEC\_IST} = S_{m}^1 + S_{m}^2 + Q_{m}^{ATS\_IST} + Q_{m}^{CFP\_IST} + Q_{m}^{agent\_IST}, \text{ where:}$$

$Q^{\text{ATS\_IST}}_m$  – cost of services for the commercial operator of wholesale trade in electricity, power and other admitted to trading on the wholesale market in goods and services in m month;

$Q^{\text{CFP\_IST}}_m$  – Comprehensive cost calculation of the services, requirements and obligations defined by the Agreement of accession to the trading system of the wholesale market in m month;

$Q^{\text{agent\_IST}}_m$  – cost of a commercial agent defined bilaterally in Agreements concluded by a commercial agent.

6.3.2. The Agreements (technical agreements) on the parallel operation of electric power systems between organizations of the member States exercising the functions of dispatching management in power generation and transmission (movement) of electric energy to the national power grid;

6.3.3. The Agreements for sale of electricity in order to compensate the deviation of actual flows on the cross sections of the interstate transmission plan are arising from the movement of electricity across borders of member States, between the economic entities authorized by member States.

7. Procedure of Organization the Commercial Account of the Hourly Actual Volumes of Interstate Power Flows between Entities of Member States.

7.1. This Procedure shall define the main directions of bilateral cooperation in terms of getting hourly data of commercial accounting; operational procedure for determining the hourly flow of electricity on interstate transmission lines (hereinafter - ITL) between the Republic of Kazakhstan and the Russian Federation based on the use of hourly data of commercial accounting and agreed basis of additional calculation methods of specified data to commercial accounting values at the points of delivery; procedure for defining data exchange procedures of commercial accounting and reconciliation of commercial accounting given to the values at the points of delivery.

Conditions and procedure for the formation and exchange of hourly data on commercial energy accounting ITL shall be determined in accordance with a bilateral Agreement on the exchange of data values for hourly electricity flows through the points accounting ITL:

## 7.2. Rapid exchange of information.

Daily (or as agreed by member States in a different period of time) the relevant entities of the member States form the values of hourly electricity flows on ITL, share data, perform the appropriate calculations, evaluate relevant data.

For rapid exchange of information containing values of hourly electricity flows transmitted over ITL used a consistent data of transfer formats.

## 7.3. Calculation of hourly values to the point of delivery.

Calculation of hourly values to the point of delivery is made in accordance with agreed procedures in bilateral agreements that calculate the actual amount of transmitted electricity.

8. The procedure for determining the actual flow balance of interstate electricity lines is in power of the member States.

This procedure, which determines the actual volumes moved through interstate electricity section of the calendar month, shall be intended for the use by authorized organizations of the member States.

Actual balance flow of electricity moved through interstate section of members shall be defined as the algebraic sum of the received (WR1\_grain) and/or given (WG1\_grain) amount of electrical energy for each calendar month in each delivery point (WBalance\_grain).

The values of electrical energy given to the Customs border (to the point of delivery) per calendar month for all work included in ITL modes "Reception", "Return" and the balance shall be calculated using the following formula:

$$WR1\_grain = \sum W(\text{factR1})_i,$$

$$WG2\_grain = \sum W(\text{factR1})_i,$$

$$WBalance\_grain = WR1\_grain + WG1\_grain, \text{ where:}$$

$W(\text{factR1})_i$  – the actual amount of the highest electricity supply at each point on the i-point of ITL per calendar month. For substitution in the formula for calculating the balance-flow, value shall be calculated taking into account the sign (direction of flow);

$W(\text{factG1})_i$  – the actual number of supplying electrical energy in each point of delivery to the i-point of ITL per calendar month. For substitution in the formula for



calculating the balance-flow, value shall be calculated taking into account the sign (direction of flow);

R – ITL number on the interstate section included into the work for the calendar month.

9. Procedure for Calculating the Volume and Value of Deviations Actual Flows on Interstate Sections from the Planned when Implementing Interstate Transmission within the EAEU.

Actual delivery on interstate sections include the following components: interstate transmission volumes, volumes of commercial Agreements concluded by economic entities of member States, the volumes and volumes of emergency assistance due to the deviation of the actual values of net power flow from the planned.

Calculation of hourly deviations of actual net power flow from the planned and quantification of deviations depending on their initiative is implemented by management UNPG of system operator of UEC of Russia, an organization that acts as the system operator of UEC of Belarus and Kazakhstan based on the following principles:

implementation of interstate transmission through UEC of Russia in hourly values are assumed equal volumes of interstate transmission and relevant planned values recorded in the daily dispatch schedule;

actual hourly volumes of electricity supply to commercial Agreements in each hour settlement period are taken as equal to planned values recorded in the daily dispatch schedule with the agreed adjustments in the prescribed manner;

volumes of hourly deviations are to be settled within the framework of relations with the power systems of Third Countries (external balancing) are recorded in volumes deviations within the EAEU. Procedure for determining the volume of external balancing coordinated system operators (with the participation of management UNPG) neighboring electric power systems of the member States;

volumes of providing emergency aid are determined by the Agreement of purchase/sale of electricity in the provision of emergency assistance concluded between subjects of internal national markets.

Volumes of hourly departures are subject to financial settlement between business entities authorized by member States in accordance with the agreements of interstate transmission for each of the member States provided for by section 6 of this Methodology.

Based on the need to comply with the terms of Agreements (technical agreements) on the parallel operation of electric power systems, including the regulation of frequency in power systems of the member States and maintain a consistent net power flow on interstate sections, cost variances should compensate the subjects of internal national electricity markets (capacity) reasonable costs that they incur as a result of participation in the relationship of balancing system on the national market of electric energy (power).

Calculating the cost of deviations should be based on the accounting for special volume purchase/sale of electricity (capacity) for grid parallel operation of electric power systems in quantities not exceeding the values specified in the Agreements (technical agreements) on the parallel operation of electric power systems or other agreements governing relationships in the electricity between member States.

Used in calculating the quantity and price parameters of electricity and power purchased and sold in order to compensate for variation confirmed the report document organizations commercial infrastructure of the Russian Federation.

When calculating the cost of deliveries under the Agreements re-metering of electricity (capacity) shall not be permitted.

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ANNEX 22  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL

on the Access to Services of Natural Monopolies in the Sphere of Gas Transmission by  
Gas Transmission Systems, including the Basics of Pricing and Tariff Policy

1. This Protocol in accordance with Articles 79, 80 and 83 of the Treaty on the Eurasian Economic Union (hereinafter – the Treaty) defines a framework for cooperation in the gas sector, the principles and conditions of the access to services of natural monopolies in the sphere of gas transmission by gas transmission systems, including the basics of pricing and tariff policy to meet the needs of the member States.

2. Definitions used in this Protocol, have the following meanings:

“Domestic demand for gas” – is gas volumes required for consumption on the territory of each member State;

"Gas" – is a combustible mixture of gaseous hydrocarbons and other gases produced on the territory of the member States, consisting mainly of methane transported in compressed gaseous state for transportation systems;

“Gas-producing member States” – are the member States where the amount of consumed gas is less than the amount of produced gas;

“Gas-consuming member States” – are the member States where the amount of consumed gas is more than the amount of produced gas;

“Gas transportation systems” – are facilities for the transportation of gas, including natural gas pipelines and related unified process objects except gas distribution networks;

“Access to services of natural monopolies in the field of gas transportation” – is the right to use the gas transportation systems, natural monopolies controlled by member States, to transport gas;

“Market (equal income) gas prices” – are wholesale prices formed to meet domestic needs including the following principles:

for gas-producing member States market wholesale price formation is accomplished by subtracting the price of gas sold on the external market value fees, taxes and other charges levied in these states, and the cost of transporting the gas outside the gas-producing member States, taking into account the differences in the cost of transportation gas on the domestic and foreign markets gas supplier;

gas consumption for the member States - the market wholesale price, the formation of which the is accomplished by producing states and deducting from the price of gas sold on the external market duties, fees, taxes and other charges, as well as the cost of transporting gas outside the member State;

“Gas transportation services” – are transportation services of gas transportation systems;

“Competent authorities” – are state bodies authorized by member States to monitor the implementation of this Protocol.

3. The member States are implementing the gradual formation of a common EAEU gas market, as well as provide access to services of natural monopolies in the transportation of gas transportation systems of the member States on the basis of the following principles:

1) non-application of the mutual trade of import and export duties (other duties, taxes and charges having equivalent value);

2) priority provision of domestic gas needs of member States;

3) prices and tariffs for gas transportation services to meet the domestic needs of member States shall be in accordance with the laws of the member States;

4) unification of norms and standards for gas member States;

5) environmental security;

6) information exchange on the basis of information, which includes data on domestic gas consumption.

4. Access to services of natural monopolies in the field of gas transportation is provided in accordance with the terms of this Protocol only in respect of gas originating

from the territory of the member States. The provisions of this Protocol shall not apply to the relationship of access to services of natural monopolies in the transportation of gas for the gas originating from the territory of Third Countries, and the relations in the transportation of gas from the territory and the territory of the EAEU.

5. Prerequisite for under this Protocol access to services of natural monopolies in the transport gas transportation systems of member States is the implementation by of a package of measures, including the following activities:

- creation of a system of information exchange on the basis of information, which includes information on domestic gas consumption;

- establishment of mechanisms for the preparation of indicative (predictive) balances in accordance with this Protocol;

- unification of norms and standards for gas member States;

- transition to the market (equal income) gas prices in the territories of the member States.

Completion of the measures by member States specified in this paragraph issued in a relevant protocol.

6. Member States shall ensure the achievement of market (equal profit) gas prices in the territories of all the member States.

7. After performing all sets of measures set out in paragraph 5 of this Protocol, member States within the existing technical possibilities of free capacities of gas transport systems and taking into account the agreed indicative (predictive) gas balance of the EAEU and on the basis of civil law agreements shall provide an access to economic entities of other member States and transmission systems located in the territories of member States, to transport gas to meet domestic needs of member States according to the following rules:

- business entities of member States have access to the gas transmission system of another member State on equal terms, including rates, with the gas producers who are not the owner of the gas transportation system of the member State on whose territory the transportation takes place;

volumes, prices and tariffs for gas transportation, as well as commercial and other conditions of transport gas transportation systems are determined by civil agreements between entities of the member States in accordance with the laws of the member States.

Member States shall contribute to the proper implementation of existing agreements on transportation via gas pipelines between entities engaged in activities on their territories.

8. In accordance with the Methodology of formation of indicative (predictive) balances of gas, oil and petroleum, competent authorities of the member States develop and agree an indicative (estimated) gas balance EAEU (production, consumption and supply to meet domestic needs, including mutual) which is made for 5 years and updated annually by 1 October.

Given the agreed gas balance member States have access to services of natural monopolies in the field of gas transportation to the domestic markets of the member States.

9. The member States shall seek to develop long-term mutually beneficial cooperation in the following areas:

- 1) transportation of gas through the territories of the member States;
- 2) construction, reconstruction and operation of gas pipelines and underground gas storage facilities and other gas infrastructure;
- 3) the provision of services needed to meet domestic gas needs of member States.

10. Member States shall ensure the unification of regulatory and technical documents governing the operation of the gas transportation systems in the territories of member States.

11. This Protocol shall not affect the rights and obligations of member States arising from other international agreements.

The relations of the member States in the field of gas transportation are not covered by the law of the member States.

12. The provisions of Section XVIII of the Treaty shall apply to natural monopolies engaged in the transportation of gas, with the specifications provided by this Protocol.

13. Bilateral agreements concluded between member States in the field of gas supply shall be valid until the entry into force of an international Agreement on the creation of a common gas market of the EAEU, provided for in paragraph 3 of Article 83 of the Treaty unless the member States agree otherwise.

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PROTOCOL  
on The Procedures, Management, Operation And Development Of Common Markets For  
Oil And Petroleum Products

1. This Protocol in accordance with Articles 79, 80 and 84 of the Treaty on the Eurasian Economic Union (hereinafter – the Treaty) defines a framework for cooperation in the oil sector, the principles of the common market of the EAEU, as well as the principles of access to services of natural monopolies in the field of transportation oil and petroleum products.

This Protocol is developed taking into account the provisions of the concept of a common energy market of the Eurasian Economic Community of 12 December 2008 and for the effective use of the potential of energy systems of the member States, as well as providing national economies oil and petroleum products.

2. Definitions used in this Protocol have the following meanings:

“Access to services of natural monopolies in transportation of crude oil and petroleum products” – is the right to use systems, transportation, natural monopolies controlled by member States for the transportation of crude oil and petroleum products;

“Oil and petroleum products” – are the products that are defined in accordance with the commodity nomenclature of foreign economic activity of the Eurasian Economic Union and the common customs tariff of the Eurasian Economic Union;

“Common market of crude oil and petroleum products of member States” - are a set of trade-economic relations between economic entities of member States in the sphere of production, transportation, supply, processing and marketing of petroleum and petroleum products in the territories of member States;



“Indicative (budget) balances of oil and petroleum products of the EAEU”- are the system of budget defined in the methodology of establishing indicative (budget) balances of gas, oil and petroleum products;

“Transportation of oil and oil products” – are the actions aimed at transportation of oil and petroleum products in any way, including the use of pipeline transportation from the point of its production to the delivery point, including filling, handling, storage and mixing.

3. When forming common markets of oil and petroleum products of the EAEU, member States are following the basic principles:

1) non-application of quantitative restrictions and export duties (other duties, taxes and charges having equivalent value). Procedure for payment of export customs duties on crude oil and petroleum products for the export outside the customs territory of the EAEU is governed by separate agreements including bilateral agreements of member States;

2) Priority to meeting the needs of member States in oil and oil products;

3) Harmonization of norms and standards for oil and oil products for member States;

4) Providing environmental safety;

5) Information support for the common markets of the oil and oil products of the EAEU.

4. Member States perform set of following measures in formation of the Common Markets of the oil and oil products of the EAEU:

1) Creation of the content sharing system based on the custom information including logistics reports, export and import of oil and oil products via multimodal transport;

2) Creation of the control mechanism preventing violations of terms of this Protocol;

3) Harmonization of norms and standards for oil and oil products for member States.

5. Specified measures in paragraph 4 of this Protocol are implemented by the signature of member States or their competent authority of the methods or rules under the relevant international treaties.

6. Member States according to the international treaties between member States within available technical capabilities provides the following conditions to:

1) Enable the long-term transportation of produced oil and its products in operational transport system inside member States territories, comprising the systems of main oil transmission pipelines and oil-products pipelines;

2) Obtain oil and oil products transport system access located inside the territory of every member States, for the economic entities registered in member States territories on the same terms as for member States economic entities, on those territories where oil and oil products transportation is occurred.

7. Oil and oil products transport services tariffs according to principles of oil and oil products transportation are established by the national authorities of each member State. Oil and oil products transport services tariffs are established for the economic entities of member States at the level not exceeding the tariffs established for the economic entities of member States, on those territories where oil and oil products transportation is occurred.

8. Competent authorities of member States in accordance with the methodology of forming indicative (predictive) balances of gas, oil and oil products are developing with the participation of the Commission and adjusting:

annually until October 1 for the following calendar year indicative (predictive) balance sheets of the EAEU for oil and oil products;

long-term indicative (predictive) balance sheets of the EAEU for oil and oil products which if necessary can be corrected due to de facto change of oil extraction, production and consumption of oil products of member States.

Volumes and directions of produced oil transportation on the territory one of member States, on the territory of another member State are annually determined via protocols between competent authorities of member States.

9. Regulation of home markets of oil and oil products for member States is performed by national authorities of member States. Member States shall take measures to liberalize the markets of oil and oil products in accordance with the legislation of each member State.

10. This Protocol shall not affect the rights and obligations of member States under any other treaties where they are participated.

11. The provisions of Section XVIII of the Treaty shall apply to natural monopolies holders engaged in the transportation of oil and oil products, with the specifications provided by this Protocol.

12. Bilateral agreements concluded between member States in the field of oil and oil products delivery, assessment and procedure for the payment of export customs duties (other duties, taxes and charges having equivalent effect), shall be valid until the entry into legal force an international agreement for the formation of common markets of oil and oil products of the EAEU provided by the paragraph 3 of Article 84 of the Treaty if member States do not agree otherwise.

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PROTOCOL  
on Coordinated (Harmonized) Transport Policy

## I. General provisions

1. This Protocol is developed in accordance with Articles 86 and 87 of the Treaty on the Eurasian Economic Union for purposes of coordinated (aligned) transport policy performance.

2. Definitions used in this Protocol mean the following:

«Civilian aviation» – is the aviation used to meet the public and economic needs;

«Single Transport Area » – is a complex of transport systems of member States within which is provided unrestricted movement of passengers, movement of goods and vehicles, their technical and technological compatibility on the basis of harmonized legislation of member States in the field of transport;

“Legislation of member States” – national legislation of each member States;

"Common market of transport services" – is a form of economic relations in which equal and parity conditions of transport services are created, functioning peculiarities of the market according to transport mode are defined by this Protocol, and by the international treaties within the EAEU.

3. Protocol Implementation is performed taking into consideration the commitments of member States undertaken by them within the World Trade Organization as well as within the other international treaties.

## II. Road Transport

4. International road transport of goods conducted by carriers of cargo registered on the territory one of member States shall be carried out on permit-free basis:

1) between member States on whose territory the carriers are registered, and another member State;

2) in transit through the territory of other member States;

3) between the other member States.

5. By 1 July 2015 member States shall adopt a gradual liberalization program of transportation by carriers registered on the territory of member States, road transport of goods between points within the territory of another member State, for the period from 2016 to 2025 with definition of extent and conditions of this liberalization.

In member States different levels and speed of liberalization for road transport of goods specified in the first paragraph of this article are allowed.

6. Gradual liberalization program stated in paragraph 5 of this Protocol shall be approved by the Supreme Council.

7. Peculiarities of coordinated (aligned) transport policy on the regulation of road transport freight services are defined by international treaties within the EAEU.

8. member States adopt coordinated measures to remove obstacles (barriers) that influence the development of international road service and establishment of the road transport services within the EAEU.

9. Transport (road) control is conducted in accordance with the order stipulated in Appendix No 1 to this Protocol.

### III. Air Transport

10. Development of air transport in the EAEU is conducted in the framework of the coordinated (aligned) transport policy by the gradual formation of a common market of air transport services.

The member States coordinate efforts for a common approach to application of standards and recommended practices of the International Civil Aviation Organization (ICAO).

11. A common market formation of air transport services shall be based on the following principles:

- 1) to ensure compliance of international treaties and acts constituting the EAEU legislation, with the norms and principles of international law in the field of civil aviation;
- 2) to harmonize the legislation of member States in accordance with the norms and principles of international law in the field of civil aviation;
- 3) to provide fair and sound competition;
- 4) to create the conditions for fleet aircraft renewal, modernization and development of ground infrastructure of airports in accordance with the requirements and recommended practice of the International Civil Aviation Organization (ICAO);
- 5) to provide flights safety and aviation security;
- 6) to ensure non-discriminatory access of the aviation companies of member States to the aviation infrastructure;
- 7) to expand air services between member States.

12. The member States recognize that each member State possesses complete and exclusive sovereignty over the airspace above its territory.

13. Aircraft flying of member States within the EAEU are performed on the basis of international agreements with member States and (or) permits issued in accordance with the legislation of member States.

14. The provisions of this section shall apply only in relation to civil aviation.

#### IV. Water Transport

15. The development of water transport in the EAEU is conducted within the framework of coordinated (aligned) transport policy.

16. Ships under the flag of member States have the right to carry freight, passengers and their baggage, towing operation between the ship flag state and another member States on the adjacent inland waterways, transit on the inland waterways of another member States (except for transportation and towing between ports in other ports of member States and Third Countries (from the ports of another member States and Third Countries)) in

accordance with international Agreement of member States of the Shipping concluded by member States for the performance of this Protocol.

17. Ships navigating on inland waterways of member State shall be registered in vessels register of member State and being in possession of a resident of member State registered in its vessels register.

## V. Railway Transport

18. The member States, contributing to the further development of mutually beneficial economic relations, considering the need to enable access to rail transport services of member States and coordinated approaches to state regulation of tariffs for these services, if such regulation is provided by the legislation of member States, the following objectives are defined:

1) to obtain gradual formation of a common market of transport services in the field of railway transport;

2) to ensure consumer access of member States to rail transport services in the exercise of transportation through the territory of each member State on terms no less favorable than those established for consumers of that member State;

3) to maintain a balance between the economic interests of rail services consumers and rail transport organizations of member States;

4) to provide facilities for railway transport organizations access of one member State to the home market of railway transport services of another member State;

5) to ensure facilities access for carriers to infrastructure services of member States in accordance with Appendixes 1 and 2 to the Order of regulation in the field of rail transport services, including the basics of tariff policy (Appendix No2 to this Protocol).

19. Regulation of access to rail transport services, including the basics of tariff policy, is performed in the manner prescribed by Appendix No.2 to this Protocol, as well as international treaties.

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Appendix 1  
to the Protocol on the Coordinated  
(Harmonized) Transport Policy

Order for Transport (Road) Control on the External Border of the Eurasian Economic  
Union

1. This Order is developed in accordance with paragraph 9 of the Protocol on the coordinated (aligned) transport policy (Annex No 24 to the Treaty of the Eurasian Economic Union) and determines the procedure for the transport (road) control on the external border of the EAEU.

2. Definitions used in this Procedure have the following meanings:

"Weight and dimensions of the transport vehicle" – are weight value, axle loads and dimensions (width, height and length) of a transport vehicle with or without cargo;

"External border of the EAEU" – is the customs territory borders of the EAEU, dividing the territories of the member States and the territories of not member States of the EAEU;

"Checkpoint" – equipped in accordance with the legislation requirements of member States a fixed or mobile point (post), and border entry point through the state border, in which transport (road) control is carried;

"Transport (road) control authorities" – is the competent body authorized by the member States for the transport (road) control implementation in the territory of a member States;

"Carrier" – is a legal or natural person using a vehicle on the right of ownership or of other lawful ground;

"Vehicle":

In transit of goods - truck, truck trailer, streamlined semitrailer or truck-semitrailer combination, chassis;



In transit of passengers - car vehicle intended for the carriage of passengers and baggage, with more than 9 seats, including the driver, as well a trailer for luggage;

"Transport (road) control" – is an implementation control over the international road transport.

Other definitions specifically not stipulated in this Order, are used in the meanings established by international treaties, including international treaties within the EAEU.

3. This Order defines unified approaches to the transport (road) traffic control implementation by the transport (road) controls authorities on the external border of the EAEU of vehicles entering (departing, in transit) in the territory of member States.

4. Vehicles, following onto the territory one of member State through the territory of another member State, are liable to the transport (road) control in the checkpoints located on the external border of the EAEU, in accordance with the legislation of member State through the territory specified vehicles follow, and paragraphs 7 and 8 of this Order.

5. Check of the vehicles, the documents required for the purposes of transport (road) control, and the execution of its results shall comply with the law of member States whose territory they cross at the external border of the EAEU and this Order.

6. Transport control authorities mutually accept documents executed by them based on results of the transport (road) control.

7. Transport control authorities of member States through the border of which entry to the customs territory of the EAEU is performed, in checkpoints besides the actions on transport (road) control, provided by the legislation of the member States shall exercise:

1) compliance check of the vehicle weight and dimensions to the standards set by similar legislation of other member States on whose territory the transit is occurred, as well as the data specified in special permits for transportation of large size and (or) heavy cargo or large size and (or ) heavy vehicle transit on the territories of another member State;

2) Existence checks of permits for transition through the territories of another member States, where the transit is occurred, its accordance to the type of transportation and compliance characteristics of the vehicle requirements provided with such permits;

3) Existence checks of special permits for transportation of oversized and (or) heavy cargo, transition of large-sized and (or) heavy vehicle, as well as special permits for the transportation of dangerous goods in the territory of another member State, where the transportation or transit is occurred;

4) Existence checks of permits (special permits) for the carrier to transport into Third Countries (out of Third Countries) into the territories of another member States where the transportation is occurred;

5) issuing to carrier the registration certificate in the form agreed with transport control authorities, in case if in accordance with the legislation of another member States transportation is allowed without permission to transit through the territories of other member States as well as in case if transportation is performed in accordance with multilateral permission.

8. Transport control authorities when vehicle departing through the external border of the EAEU except for the actions specified in paragraph 7 of this Order in the checkpoints perform a check of:

1) Carrier's existence of the receipt for payment of fees for the transit of a vehicle on the roads of member States on whose territory the transportation is occurred, if the payment of such a charge is binding in accordance with the legislation of member States;

2) Carrier's (driver's) existence of the receipt confirming fine payment for the execution procedure violation of international road transport on member States territory or court decisions on the complaint for imposition of a corresponding administrative penalty to the carrier (driver) in case if the permission to transit through the territory one of the member States or in the registration certificate there is a mark of transport control unit to fine the carrier (driver) with such a penalty ;

3) Access existence for vehicles of carriers of member States to international road transport;

4) Carrier's existence of the necessary documents in case of notification receipt specified in paragraph 9 of this Order, from the transport (road) control authorities of another member States.

9. When establishing control actions as provided in paragraph 7 of this Order, inconsistencies controlled vehicle parameters, lack or inconsistency of documents provided by the legislation of member States, transport (road) control authorities one of the member States provides the driver with a notice in the form coherent to the transport (road) control authorities of member States with the following information:

on exposed nonconformance;

on the necessity to obtain the missing documents before arriving into the territory of another member State;

on the closest due to the route of the vehicle checkpoint of the transport (road) control authority of another member State in which the carrier shall offer the evidences of removal of nonconformity controlled parameters of the vehicle and (or) the documents specified in the notice.

10. Information on the notification issue shall be sent to the transport (road) control authority of another member State and entered into the data base of the transport (road) control unit identified nonconformance.

11. In case if the transport (road) control authorities of one of the member States issued a nonconformance notice to carrier in accordance with paragraph 9 of this Order, the transport (road) control authorities of another member State shall be free to make a check on to verify the performance of this notice in the checkpoint, and if there are reasons to apply the carrier (driver) measures in accordance with the legislation of that another member State.

12. Vehicle release from the territory of the EAEU is not carried out prior to the presentation of carrier documents of which the existence is required by paragraphs 7 and 8 of this Order.

13. When exposing nonconformance of the vehicle controlled parameters, the absence or nonconformance of documents provided by the legislation of the member States, the transport (road) control authorities one of member State when vehicle departing through the external border of the EAEU, heading from the territory of that State onto the territory of another member State, informs the transport (road) control authorities of that another member State.

14. Member States on the basis of reciprocity, take measures to harmonize its legislation, methods and techniques of the vehicle (car) controls on the external border of the EAEU with:

- 1) The requirements for weight vehicles parameters when driving on public-access roads which are included into the international transport corridors;
- 2) establishing a monitoring system for the full payment of fees for the vehicles transition on the public-access roads of another member State;
- 3) developing a mechanism for the settlement of disputes as they arise with carriers of Third Countries;
- 4) working out a return mechanism (detainment) vehicles in case of violation of the established requirements to fulfill conditions of the international automobile transportation in the territory of the EAEU.

15. Permissions (special permits) shall be invalid in the following cases:

- 1) such permissions are executed or used in violation of the legislation of member States, which were issued by the competent authorities;
- 2) weight and (or) dimensions vehicle parameters specified in the special permit that are not consistent with the results of weighing and measuring the vehicle dimensions;
- 3) the characteristics of the vehicle do not correspond to the characteristics of the vehicle, provided permission to transit through the territories of member States.

16. In case of establishing in course of the control actions parameters (characteristics) mismatch the vehicle parameters (characteristics) specified in the permission, transport (road) control authorities of one of member States is entitled to request on-the-spot from the transport (road) control unit of another member State the permission validity.

17. For the purpose of implementation of this Order, transport (road) control authorities:

- 1) sign separate protocols, bring them to the transport (road) control authorities of another Member-state legal enactments of their states, providing requirements for the transport (road) control, inform each other about the changes brought to these acts, as well as exchange the document samples which are necessary for the transport (road) control in accordance with this Order;

2) mutually and regularly exchange the information received in results of transport (road) control. Form and procedure for the exchange of the specified information, as well as its composition are determined by the transport (road) control authorities;

3) organize the vehicles database maintenance in transit through the territory of one member State to the territory of another member State, and share the information contained in this database.

18. The information exchange received in the result of transport (road) control is done electronically.

19. Transport (road) control authorities can provide the received in the result of transport (road) control another information on the international transport vehicles, transiting goods.

20. For the purpose of execution and consideration of transport (road) vehicles results, transport (road) control authorities use information resources containing information on the results of the additional actions on transport (road) monitoring performed in accordance with paragraphs 7 - 9 of this Order, and provide mutual use of these information resources.

21. Member States, in accordance with established procedure inform the competent authorities of the States that are not members of the EAEU, about changing the order of the transport (road) controls at the external border of the EAEU.

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## to the Protocol on the Coordinated (Harmonized) Transport Policy

Order on Regulation of the Access to the Railway Services, Including the Basics of  
the Tariff Setting Rules

1. This Order is developed in accordance with the Protocol on the coordinated (aligned) transport policy (Annex No 24 to the Treaty on the Eurasian Economic Union (hereinafter - Treaty)), and defines the procedure for access to rail transport services, including the basics of tariff policy, and applies to the relations between railway transport organizations, consumers, competent authorities of member States in the field of railway transport services.

2. Definitions used in this Order have the following meanings:

"Access to rail transport services" – rendering of services by railway transport organizations of one member State to consumers of another member State on terms no less favorable than those which similar services to consumers of the first member State are rendered;

"Access to infrastructure services" – is the possibility of obtaining services by carriers for transportation infrastructure in accordance with the rules under Appendixes No 1 and 2;

"Infrastructure" – is the railway transport infrastructure, including main lines and station yards, power supply units, signaling arrangement, communications, facilities, equipment, buildings, structures, and other objects technologically necessary for its functioning;

"Organization of railway transport" – is a natural person or juridical person of the member State that provides services to rail transport consumers;

"Transportation process" – is a set of organizational and technologically interconnected operations involved in the preparation, implementation and completion of the transport of passengers, cargo, baggage, freight and railway mail service;

"Carrier" – is the organization of rail transport conducting cargo, passengers, baggage, freight and mail activities, which has the appropriate license, having the right of ownership or on other legal basis with rolling stock, including towing vehicles;

"Consumer" – is a natural person or juridical person of member State, using or intending to use the railway transport services;

"Tariff for railway transport services" - is the monetary value of the rail transport services cost;

"railway transport services " – are services (work) provided (executed) by the railway transport users organizations, namely:

freight and additional services (work) connected with the organization and performing of freight (including empty rolling stock);

transportation of passengers, baggage, freight, mail and additional services (work) related to such transportation;

infrastructure services;

"Infrastructure services" - are services related to the infrastructure use for transportation, and other services specified in Appendix No 2 to this Order.

3. Rail transport organization regardless of consumer membership or of one or another member State, its organizational and legal forms provide the rail transport services access taking into account this Order and the legislation of member States.

4. Member States shall ensure access for carriers of member States to infrastructure services in compliance with the principles and requirements specified in Appendixes No 1 and 2 to this Order.

5. Procedure and conditions of other rail services within the formation of a common market for transport services are defined by international treaties if necessary within the EAEU.

6. Tariffs for rail transport and (or) its limit (price limits) are set (changed) in accordance with the legislation of member States and international treaties ensuring differentiation of tariffs opportunities in accordance with the legislation of their member State with the following principles:

1) Compensation for economically justified costs directly relevant to the services of railway transport;

2) ensuring the development of rail transport in accordance with the legislation of member States;

3) Ensuring tariffs transparency for railway transportation services, as well as the opportunity of the additional revision of such tariff and (or) its ceiling (price limits) with the sharp change in economic conditions with advance notification of member States;

4) ensuring decision-making publicity on tariffs for railway transport services;

5) a harmonized approach to the definition range of cargo and tariff-setting rules for railway transport services provided under conditions of natural monopoly;

6) exchange rate determination for railway transport services in each member State in accordance with the legislation of its member State.

7. Establishment (Change) tariffs for railway transportation services and (or) their ceiling (price limits) made in accordance with the legislation of its member State taking into consideration of this Order.

8. When railway transportation through the territories of member States uniform tariffs by transportation mode are applied (export, import and state-based tariffs).

9. To increase the competitiveness of rail transport of member States, to create favorable conditions of railway transportation, to attract new cargo flows previously performed by railway transport, to enable the possibility of using the unused or partly used routes of freight by railway, to stimulate traffic growth of goods by railway of member States, to stimulate the adaptation of new equipment and technology for rail transport organizations authorized to make decisions, reason from economic efficiency, about changing tariffs of railway transport freight services within the ceilings (price limits), established or agreed by the competent authorities of member States in accordance with its the legislation.

10. Railway transport organizations realize granted right of tariffs changing for the railway transport freight services within the ceilings (price limits) in accordance with the methodology (methods, procedures, rules, regulations or other legislative instruments), approved (defined) by the competent authorities of member States in accordance with the



legislation of member States, in compliance with the basic principle of the prohibition of creating advantages for specific producers of member States.

11. Decisions about tariffs changing of railway transport freight services shall be officially published in accordance with the legislation of member States, being sent automatically to the competent authorities of member States and to the Commission not later than 10 working days before the date of entry into legal force.

12. If the actions of the railway transport organizations on the tariffs change for railway transportation freight services violated the rights and interests of consumers, consumers are entitled to apply to the national competition authority of a member State in the territory of which the consumer is in or is resident of, with the defense of rights statement of their violated rights and interests.

In case of rail transport organization, whose actions are appealed by the consumer, is based on the location or residence of the consumer, the national antimonopoly competition authority of a member State shall examine the application of the consumer in accordance with the legislation of the state.

In case if the application is filed by the consumer to the actions of rail transport, based out of the location or residence of the consumer, the national antimonopoly competition authority of a member State, after the determination and recognition of the requirements validity specified in the statement of the consumer, not later than 10 working days, directs the request to investigation to the Commission, as within 3 working days from the date of application to the Commission shall notify the consumer and the national competition authority of member State on whose territory the rail transport organization committed a violation is situated.

Commission on the basis of appeal shall handle the application of consumer and makes decisions in accordance with rules established by an international agreement within the EAEU.

13. When transporting goods by railway transport between member States through the territory of another member State and between the territories of member States with the participation of the railways of another member State, as well as when transporting goods from the territory of one member State through the territory of another member

State in Third Countries through sea ports of member States and in the opposite direction, each member State applies a unified tariff of each member State.

14. When transporting goods from the territory of one member State through the territory of another member State to a third country and vice versa (except for transport of goods through the ports of member States), as well as when transporting goods from Third Countries in transit to Third Countries through the territory of member States, coordinated (aligned) tariff policy is performed in accordance with the concept of establishing a coordinated tariff policy on railway transport of the member States of the Commonwealth of Independent States of October 18, 1996.

15. The member States shall assign the competent authorities responsible for the implementation of this Order.

16. The member States shall inform each other and the Commission about the assign and the official name of its competent authorities not later than 30 days from the date of the Treaty entry into a legal force.

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Attachment 1  
to the Order on Regulation of the Access  
to the Railway Services,  
Including the Basics of the Tariff Setting Rules

The Rules on an Access to Services of the Railway Infrastructure within the Eurasian  
Economic Union

I. General Provisions

1. These Rules shall govern the relations of carriers and infrastructure operators in the provision of access to infrastructure services in the areas of infrastructure within the framework of the EAEU.

2. The regulation of relations of transporters and infrastructure operators for the provision of access to infrastructure services within the territory of one member State, with the exception of relations, provided in paragraph 1 of these Rules shall be in accordance with the legislation of the member States.

3. These Rules do not apply to the relationship between the carriers of the member States to provide services on the use of locomotives and locomotive crews in the areas of infrastructure of the member States, which shall be based on the agreements (contracts) between these carriers.

II. Definitions

3. The terms used in these Rules shall mean the following:

"schedule of trains" – is a legal and technical document infrastructure operator, establishing the organization of trains of all categories in the areas of infrastructure, graphically displays the following trains on scale grid in the conventional day, divided into

standard (for the planning year), variant (in some periods of time) and operational (for the current planning day);

"Long-term agreement for the provision of infrastructure services" – is the agreement for the provision of infrastructure services concluded between the infrastructure operator and a carrier for a period of not less than 5 years;

"Additional application" – is an application for the granting of access to infrastructure services, received from the Carrier to carry additional traffic during the period of regulatory train schedule;

"Access to infrastructure" - is the possibility of obtaining services by carriers for transportation infrastructure;

"National (network-wide) Carrier" – is the carrier, carrying out activities in the carriage of goods, passengers, baggage, freight, mail and ensuring implementation of the plan of formation of trains on the entire infrastructure of a member State, including special and military transport. National status (network-wide) of the carrier shall be determined by the legislation of a member State;

"Graphics thread" – is a graphical display on the train schedule of the route of the train indicating the points of origin, destination and passing, time of departure, arrival, technological parks, average travel times, as well as other technical and technological parameters of the train;

"Infrastructure operator" – is the organization of rail transport, which owns the infrastructure and infrastructure using legally and (or) providing infrastructure services in accordance with the legislation of the member State on whose territory is located infrastructure;

"Train formation plan" - is the regulatory technical document approved by infrastructure operator on the basis of the draft plans and train formation carriers determine the categories and destination of trains, train stations formed taking into account the capacity of the infrastructure sites and processing ability of stations;

"Carrying capacity of the infrastructure section" – is a maximum number of trains and pairs of trains that can be overlooked by the infrastructure section for the settlement period of time (day) depending on the technical and technological capacities of

infrastructure, rolling stock and ways of organizing the movement of trains in view of the various categories of trains crossing ;

"Timetable" – is document containing the information about the movement of trains on the specific calendar dates on the basis of the train schedule;

"Security certificate" - is a document certifying the conformity of the safety management system participant transportation process rules of rail safety issued in the established order in accordance with the legislation of member States;

"Competent authority" - is the executive authority (government) of the member State in whose jurisdiction includes issues of government regulation and (or) management in the field of railway transport determined in accordance with the legislation of member States;

"Infrastructure section" – is a part of the railway infrastructure, adjacent to the junction of two adjacent infrastructures of the member States within the established infrastructure operator land treatment locomotive.

4. The other terms used in these Rules shall have the meaning as defined in the Protocol on the coordinated (aligned) transport policy, the Order on access to rail transport, including the basics of tariff policy, as well as the Service Regulations of railway infrastructure within the Eurasian Economic Union (hereinafter - service Rules).

### III. General Principles of Access to Infrastructure Services

5. Access to infrastructure services shall be provided in the areas of infrastructure and based on following principles:

1) Equality requirements for carriers, established by the legislation of the member State on whose territory the infrastructure, taking into account technical and technological capabilities within the areas of infrastructure capacity;

2) In accordance with the legislation of the member States on whose territory the infrastructure shall apply to carriers uniform price (tariff) policy on infrastructure services;

3) The availability of information about the list of infrastructure services, the order of their provision, based on the technical and technological infrastructure capacity, tariffs, fees and charges for these services;

4) Rational planning of repair, maintenance and service infrastructure for the effective use of its capacity and to ensure the continuity of the transportation process, the integrity and safety of technological processes;

5) Protection of information constituting commercial or state secrets, which became known in the planning, organization of transport activities and the provision of infrastructure services;

6) Priority of carriers providing access to infrastructure services in limited capacity of infrastructure in accordance with the regulatory schedule of trains;

7) To ensure the proper technical condition carriers used their railway rolling stock.

6. Principle of priority of carriers providing access to infrastructure services is implemented through the following levels of selection:

1) Determination of train category, priority which is determined in accordance with the legislation of member States on whose territory infrastructure is located or infrastructure operator acts not contradicting the legislation of the member State on whose territory infrastructure is located;

2) In the case of identity of categories of train depending on:

Availability of long-term agreements for the provision of infrastructure services based on contractual obligations in terms of traffic;

Intensity of use of the carrying capacity of infrastructure sections carrier;

Existence of the agreement for the provision of infrastructure services;

3) In the case of criteria identity specified in subparagraphs 1 and 2 of this paragraph, the implementation of competitive procedures in accordance with the legislation of the member State on whose territory the infrastructure is located.

#### IV. Terms of Access to Infrastructure Services

7. Access to infrastructure services shall be provided by infrastructure operators if carriers:

License for carrying out transport activities, issued by an authorized body of the member State in accordance with the legislation of the member State on whose territory the infrastructure is located;

safety certificates issued by the competent authority of the member State in accordance with the legislation of the member State on whose territory the infrastructure is located;

availability of documents proving their qualifications and training of the qualified employees involved in the organization, management and implementation of the transportation process, in accordance with the legislation of the member State on whose territory the infrastructure is located.

8. Access to infrastructure services is provided on the basis of:

1) technical and technological capabilities of infrastructure for the movement of trains and shunting movements within the site infrastructure;

2) plan formation of freight trains and train schedule;

3) capacity infrastructure sites, offers of carriers for use of infrastructure and distribution sections of infrastructure operator capacity infrastructure sections on the basis of access to infrastructure services, as defined in Section III of these Rules;

4) absence in accordance with the legislation of the member State on whose territory infrastructure is located, prohibitions and restrictions that hinder the implementation of the railway carriage;

5) presence of the carrier agreements with other bodies and organizations in cases where the legislation of the member State on whose territory the infrastructure is located.

9. Right of access to infrastructure services on certain graphics threads carriers can be provided for a period not exceeding the validity of train schedules, except for rights arising from long-term contracts.

## V. Providing Access to Infrastructure Services

10. Providing access to infrastructure services is conducted to meet the requirements of legislation of member State on whose territory infrastructure is located, and includes the following steps:

- 1) Development and publishment of technical specification of sections infrastructure by infrastructure operator;
- 2) Submission of carrier applications for access to infrastructure services (hereinafter - application);
- 3) Consideration of application by infrastructure operator;
- 4) Approval of the train schedule and timetables;
- 5) Conclusion of a contract for the provision of infrastructure services in accordance with the legislation of the member State on whose territory the infrastructure is located. If the carrier is both infrastructure operator, planned to use, filing an application and conclusion of the Contract shall not required.

11. Providing access to additional transport infrastructure not provided statutory schedule of trains, is based on the additional claims in the manner prescribed by these Rules.

## VI. Technical Specification of Infrastructure Sections

12. Annually, not later than 3 months before the start date of receipt of applications, infrastructure operator prepares, approves and publishes technical specification sections infrastructure in the manner prescribed by infrastructure operator acts not contradicting the legislation of the member State on whose territory the infrastructure is located.

13. The technical specifications in sections of infrastructure should be specified:

- 1) Technical characteristics of infrastructure sections and stations needed to organize the movement of trains and shunting movements, indicating the length and type of infrastructure sections thrust standards of weight and length of the trains, train speeds of different categories;
- 2) Projects thread train schedule for international passenger traffic;



3) Estimated time of receipt transfer (exchange) freight trains for each interstate points defined by the Board of Railway Transport member States of the Commonwealth of Independent States;

4) Carrying capacity of infrastructure sections, except capacity of sections of the infrastructure necessary to national (network-wide) carrier to perform transport in accordance with the legislation of the member State on whose territory the infrastructure is located.

14. Infrastructure operator shall specify in the technical specification sections and other information infrastructure conditions for transport planning and organization of traffic on the sites infrastructure.

## VII. Submission and Examination of Applications

15. The carrier submits the application to the infrastructure operator.

16. The period of admission, examination requirements, the initial formation of a draft regulatory train schedule and deadlines for submission of information required by paragraphs 24 and 26 of these Rules shall be determined by the legislation of the member State on whose territory the infrastructure is located, and (or) acts infrastructure operator which do not contradict the legislation of the member State on whose territory the infrastructure is located.

17. The application shall be accompanied by:

1) Project planned schedule of thread;

2) Information on planned annual volumes of traffic;  
(by quarter and month, as well as by type of goods);

3) Information on the number of trains planned for transportation;

4) Information on the types and characteristics of locomotives, provided by the carrier to provide transportation;

5) Documents confirming compliance with carrier requirements set forth in paragraph 7 of these Rules.

18. Application submitted by the carrier of infrastructure operator on paper shall meet the following requirements:

Application and accompanying documentation shall be bound, numbered and sealed by carrier, and signed by its head or his authorized representative;

The accompanying documents shall be originals or copies of them, in the latter case the head or his authorized person signing the application shall confirm in writing their accuracy and completeness;

application and accompanying documentation shall be submitted in Russian or in the language of the state where the legal registration of infrastructure operator and shall not contain corrections or additions. The application and its accompanying documents in another language shall be accompanied by duly certified text translation into Russian.

19. Application submitted in electronic form shall be submitted in accordance with paragraph 17 of these Rules with regard to the requirements of electronic document and shall be signed by electronic signature.

20. The application is subject to registration with the issuance of infrastructure operator carrier document, which shall contain the registration number, date of acceptance of the application and a list of received documents.

21. Infrastructure operator checks the received applications for compliance with the requirements established by paragraphs 17 - 19 of these Rules.

22. In case of inconsistency of application to the requirements established by these Rules, the infrastructure operator, within 5 working days of receipt of the application, shall notify in writing to the carrier's of the refusal to accept the application for review with the reasons for refusal.

23. During consideration of applications (but not later than one month before the expiry of the deadline for consideration of applications) infrastructure operator has the right, if necessary, ask the carrier for more information (data) required for the formation of regulatory train schedule.

Additional information (data) requested by the infrastructure operator shall be submitted to the carrier within 5 working days of receipt of the request from the infrastructure operator subject to the requirements of application.

24. The initial draft of regulatory train schedule drawn up taking into account the infrastructure operator accepted for consideration of applications carriers and maximum capacity usage of infrastructure sections.

Infrastructure operator shall inform the carrier on the outcome of its application in the terms defined by the infrastructure operator.

25. In case of disagreement of carriers with the initial result of the application infrastructure operator can arrange coordinating approval procedures aimed at resolving disputes (conflicts) between interested carriers through negotiations, during which the operator has the right infrastructure to offer carrier other thread schedule that differ from those on which the application was filed.

26. Infrastructure operator after all the procedures provided by this section shall inform the carrier on the harmonization (inconsistency) application with adjustments of the application filed by the carrier (if any).

#### VIII. Formation, Development and Regulatory Approval of the Train Schedule and Timetables

27. Regulatory train schedule and timetable are developed and approved by the infrastructure operator on an annual period in accordance with the legislation of the member State on whose territory the infrastructure is located, taking into account the carriers received from applications and the results of the coordination of procedures for harmonizing.

28. Regulatory schedule of trains is formed by the infrastructure operator taking into account:

- 1) train safety;
- 2) most efficient use of capacity and carrying capacity of infrastructure and processing sites in railway stations;
- 3) possibility of work for maintenance and repair of infrastructure sites.

29. Development of regulatory train schedule shall be based on the principle of priority.

30. Regulatory schedule of trains shall come into force at 24.00 last Sunday on May of the calendar year and shall be terminated at 24.00 last Saturday on May of the following calendar year.

31. Regulatory train schedule and timetable shall be adjusted for freight trains in the manner prescribed by the infrastructure operator.

#### IX. Conclusion of the Contract for the Provision of Infrastructure Services

32. The contract for the provision of infrastructure services is concluded after approval of the carrier infrastructure operator application, but not later than 10 calendar days before the date of entry into force of regulatory train schedule.

33. The contract for the provision of infrastructure services shall be subject to the provisions in the Rules for providing services.

The contract for services infrastructure for additional applications shall be concluded no later than 1 month prior to the calendar month of the traffic.

34. Infrastructure operator shall refuse to conclude a contract in the presence of the carrier's debt to the infrastructure operator for services rendered infrastructure as well as in other cases stipulated by the legislation of the member State on whose territory the infrastructure is located.

#### X. The Additional Applications

35. The additional application for access to infrastructure services (hereinafter - additional application) of the carrier shall be filed in accordance with the requirements of paragraphs 17 - 19 of these rules.

36. The additional application shall be registered by infrastructure operator with the issuance of the document to the carrier, which shall contain the registration number, date of receiving the application and a list of additional documents adopted.

37. The additional application shall be filed not later than 2 months before the beginning of the calendar month of carrying.

38. The additional applications shall reviewed for compliance with the requirements established by these Rules, within 1 month from the date of receipt, following the consideration of which shall be contracted or additional agreements signed.

39. According to additional applications by carriers infrastructure operator shall consider additional thread schedule.

40. The applications received after the deadline specified in paragraph 16 hereof shall not be accounted for in the formation of regulatory train schedule and treated as additional orders.

41. Bold graphics thread for additional applications shall be carried out in accordance with the legislation of the member State on whose territory the infrastructure is located.

42. Carriers bear the liability for risks of partially accept or reject the additional claims.

#### XI. Procedure for submission of information

43. Infrastructure operator posts on its official website the technical specification of sections infrastructure, list of legal acts and acts of infrastructure operator governing the access to infrastructure services, taking into account the requirements of the legislation of the member State on whose territory the infrastructure is located.

44. Infrastructure operators and carriers shall comply with the legislation of the member State on whose territory the infrastructure, including the requirements of national security, subject to the restrictions on the dissemination of information, containing information relating to state secrets or limited to disseminate.

#### XII. Settlement of Disputes

45. All disputes between the carrier and infrastructure operator arising in the implementation of these Rules shall be resolved through negotiations.

46. If, in the course of negotiations carrier and infrastructure operator cannot reach mutual agreement, all disputes shall be resolved in accordance with the legislation of the member State on whose territory the infrastructure is located.

Attachment  
to the Rules on Access to Railway Infrastructure in the Framework  
of the Eurasian Economic Union

Application Form for Access to the Railway Infrastructure in the Framework of the  
Eurasian Economic Union

from " \_\_ " \_\_\_\_\_ year \_\_\_\_\_

for the period from \_\_\_\_\_ to \_\_\_\_\_

Infrastructure operator \_\_\_\_\_

\_\_\_\_\_  
(Name, address, postal address)

Carrier \_\_\_\_\_

(Name, address, postal address)

Number and date of the contract for the provision of rail infrastructure services within  
the Eurasian Economic Union (if any)

\_\_\_\_\_  
I hereby confirm the completeness and accuracy of the following documents  
accompanying the application (information) on \_\_\_\_\_ \* 1. in \_\_ copies:

1) \_\_\_\_\_;

...) \_\_\_\_\_.

\_\_\_\_\_  
Signature Seal of Carrier \* Note: The attached documents (information) provided for  
in paragraph 17 of the Rules of access to railway infrastructure in the framework of the  
Eurasian Economic Union.

\_\_\_\_\_

Appendix No.2  
to Access Regulation Order  
to Railway Transport Service,  
Including Basics of Pricing Policy

Rules on Providing Services of Railway Infrastructure within the Eurasian Economic  
Union

I. General Provisions

1. The Rules define the order and conditions of service within the boundaries of areas of railway infrastructure of the member States in the framework of the planning and organization of transport activities, a list of such services, unified principles of scheduling and allocation of infrastructure capacity, significant terms of contracts for the provision of infrastructure services, rights, duties and responsibilities of the infrastructure operator and carriers.

II. Definitions

2. Definitions used in these Rules shall mean the following:

"Extra train" – is a train not covered by the schedule of trains (emergency train and fire train, snow plows, locomotives without cars, special self-propelled rolling stock), designed to eliminate obstacles of train movement, perform unforeseen work and appropriate relocation vehicles (their sequence is determined legislation of the member State on whose territory infrastructure is located or infrastructure operator acts not contradicting the legislation of the member State on whose territory infrastructure is located);

"Dispatching transportation process" – is a process of monitoring, traffic control and shunting work in the operational environment;

"Shunting" – is the change operation of trains (cavil (uncoupling) of rolling stock), formation (disbanding) compounds, compositions permutation from park to park, movement and staging of the locomotive of the train locomotive or exclusion of a given composition, the supply of cars on driveways way or cleaning with such paths and other operations;

"Emergency situation" – is a circumstance that threatens the safety of trains due to failure of infrastructure or created obstacles to the passing of trains;

"Infrastructure operator" – is the organization of rail transport, which owns the infrastructure and infrastructure using legally and (or) providing infrastructure services in accordance with the legislation of the member State on whose territory infrastructure is located;

"Transport planning" – is the development of plan to transport facilities (stations) infrastructure for a set period of time (year, month, day) in accordance with the signed agreements for the provision of services;

"Daily train plan" – is a document drawn up by the operator of infrastructure for the transportation process scheduling and train traffic in the planned day;

"Technical Plan" - is a document drawn up by the operator, based on consolidated transportation plan, technical plans and information carriers Council for Rail Transport of CIS - Commonwealth of Independent States.

3. The other terms used in these Rules shall have the meaning as defined in the Protocol on the coordinated (aligned) Transport Policy and Order on access to rail transport, including the basics of tariff policy, as well as the Rules of access to railway infrastructure in within the Eurasian Economic Union (hereinafter - Access Rules).

### III. Services Provided by Infrastructure Operator

4. Enumeration of the infrastructure services in accordance with Appendix includes basic services associated with the use of infrastructure for transportation.

5. List of operations (works) that are part of the infrastructure services is determined by taking into account the technological features of the transport process and the



requirements of the legislation of the member State on whose territory the infrastructure is located.

6. Infrastructure services listed in Appendix to these Rules, provided compliance with the law of the member State on whose territory the infrastructure is located, including part of providing national security.

7. According to the contract with the carrier infrastructure operator shall provide other services not listed in Appendix to these Rules in accordance with the legislation of the member State.

#### IV. Order on Providing Service of Infrastructure

8. Provision of infrastructure involves interaction infrastructure operator and the carrier under the following processes of the organizations and operations:

- 1) technology planning and evaluation services;
- 2) monthly and operational traffic planning;
- 3) implementation of transport under the contract for the provision of infrastructure services (hereinafter - contract);
- 4) communication between the operator and carrier infrastructure.

9. Planning and regulation of transportation, the adjustment of the volume of transportation and traffic schedule carried out in the manner determined in accordance with these Rules, the Rules of access legislation of the member State on whose territory infrastructure is located, infrastructure operator acts not contradicting the legislation of the member State on whose territory infrastructure is located.

10. At the operational planning of infrastructure operator and approved carriers operate daily plan of trains (train schedule and coordinated technical plan, including the plan of exchange trains, cars on interstate butt items as identified by the Council for Rail Transport of - the Commonwealth of Independent States).

11. Implementation of transportation is a set of organizational and technology-related operations of infrastructure operator and carriers conducted in accordance with these Rules, the legislation of the member State on whose territory the infrastructure is located,

and the infrastructure operator acts not contradicting the legislation of the member State on whose territory infrastructure is located.

12. Use of infrastructure is carried out in accordance with these Rules and in accordance with rules established by the legislation of the member State on whose territory the infrastructure is located, including the requirements of traffic safety, as well as infrastructure operator acts not contradicting the legislation of member State on whose territory the infrastructure is located.

13. Infrastructure maintenance is carried out in accordance with the legislation of member State on whose territory the infrastructure is located.

14. The common principles of transportation process scheduling and acceptance rate shall be as follows:

- 1) control of movement of trains on the areas being serviced by one infrastructure dispatcher;
- 2) Performance of technological norms and standards contained in the schedule of trains, processes and technical standards of operational work;
- 3) train safety and health of employees;
- 4) providing by dispatcher the priority of traffic.

15. Dispatch transportation process is carried out by infrastructure operator or person authorized by him to ensure the safe acceptance of trains on infrastructure.

Scheduling transportation process is carried out in accordance with the schedule of trains approved by plan daily trains, and in the manner prescribed by the rules of technical manuals, instructions for train movement and shunting operations at the stations, signaling and communications, approved by the legislation of the member State on whose territory is infrastructure, and (or) acts of the infrastructure operator, do not contradict the legislation of the member State on whose territory the infrastructure is located.

16. The admission process, origin and passing of trains, shunting movement of any vehicle (rolling stock), or self-propelled machinery used in the area of infrastructure, regulated infrastructure operator.

Orders (instructions) infrastructure operator in respect of these proceedings, including those relating to the security requirements of train traffic schedule standards, processes of linear units' infrastructure required for all participants in the transportation process.

17. For the purposes of the transportation process infrastructure operator and carriers use information systems infrastructure operator for the exchange of information (data) to the extent permitted by legislation of the member State on whose territory the infrastructure is located.

18. Additional information with respect to the basic information submitted by the operator to the carrier infrastructure based on the individual contracts.

19. Infrastructure operator may refuse to provide services to the carrier infrastructure if there is a contract in the case of:

1) termination or imposing restrictions on transportation, including restrictions on the import and (or) export, cargo, baggage and cargo in accordance with the legislation of the member State on whose territory the infrastructure;

2) inability to provide infrastructure services, following the occurrence of emergency situations;

3) the implementation of extra transport trains;

4) threat to national security or emergencies, force majeure, hostilities, blockades, epidemic or other, do not depend on the operator infrastructure and carriers circumstances that impede the fulfillment of obligations under the contract;

5) establishment of a procedure for providing infrastructure services authorized body on government decision member State on whose territory the infrastructure is located;

6) other cases stipulated by the legislation of the member State on whose territory the infrastructure is located.

20. Upon cancellation of the carrier in the provision of infrastructure services in the cases provided for in paragraph 19 of these Rules, the operator shall notify the carrier infrastructure of impossibility of implementing the obligations in the manner prescribed by the contract.

21. Infrastructure operator shall take the necessary measures to organize passing of trains, with the following deviations from the train schedule or not covered by this schedule.

22. The fact that the provision of infrastructure services infrastructure operator and the actual amount of supported documents, the form of which shall be approved in accordance with the legislation of the member State on whose territory the infrastructure is, and (or) acts of the infrastructure operator, do not contradict the legislation of the member State on whose territory infrastructure is located.

#### V. Contract on the Provision of Infrastructure and Services

23. Infrastructure services are provided on the basis of the contract concluded in written form between the infrastructure operator and carrier.

24. The contract shall not contain provisions contrary to the principles and requirements of the rules of access and these Rules and the legislation of the member State on whose territory the infrastructure is located.

25. If during the term of this contract there shall be found invalid information provided by the carrier (except for projected figures) referred to in paragraph 17 of the access rules and contract, the infrastructure operator may terminate it unilaterally.

26. The right to require from the carrier shall be prohibited under the contract, except as provided for in paragraph 27 of these Rules.

27. In case of inability to implement rights arising from the contract, the carrier may, with the consent of an infrastructure operator, transfer this right to another carrier in the presence of the latter contract concluded under the conditions stipulated by the contract.

28. The contract shall contain the following important conditions:

- 1) The subject of the v (the amount of services, the share of infrastructure capacity (number of threads graphics), land infrastructure);
- 2) terms and conditions of the provision of infrastructure services;
- 3) cost of services (tariffs, prices, charge rates) or the procedure of its determination;

4) procedure and terms of payment (settlement procedure, payment methods, payment currency);

5) The liability of the parties under the contract for causing losses to non-fulfillment or improper fulfillment of obligations under the contract (penalties, fines and damages);

6) force majeure (acts of God);

7) The validity period, grounds and procedure of termination of the contract, including the conditions of termination of the contract.

29. One-time contract, signed in the presence of signatory of the contract (or a supplementary contract to the contract) can be between the infrastructure operator and the carrier when filing in an application for further additional freight.

## VI. The Rights and Obligations of the Infrastructure Operator and Carrier

30. The Carrier shall have the right to:

1) guide the infrastructure operator proposals for the organization of transport;

2) obtain information to the extent necessary for the organization of transport in accordance with these Rules and the Rules of access to mandatory compliance with the law of the member State on whose territory infrastructure is located, including the requirements of national security, subject to the restrictions on the dissemination of information, containing information relating to state secrets (the state secrets) or limited to the distribution;

3) obtain access to infrastructure and services infrastructure for transport activities, including route of the train in accordance with the terms of the contract;

4) implement other rights established by the legislation of the member State on whose territory the infrastructure, and (or) in accordance with the signed contracts.

31. The carrier shall:

1) provide to infrastructure operator information and documents necessary for the provision of infrastructure services;

2) ensure compliance with the requirements of the rolling stock of railway safety established by the legislation of the member State on whose territory infrastructure is

located and infrastructure operator acts not contradicting the legislation of the member State on whose territory infrastructure is located;

3) inform the operator on infrastructure incidents or circumstances that imply (may cause) a violation of the safety requirements in the field of railway transport, the legislation of the member State on whose territory the infrastructure is, and to take corrective measures (prevention);

4) ensure compliance with the requirements for safety and operation of railway transport, the legislation of the member State on whose territory the infrastructure is, and the infrastructure operator acts not contradicting the legislation of the member State on whose territory the infrastructure is located;

5) ensure the protection of information constituting commercial (proprietary) secret infrastructure operator, which became known to the carrier;

6) pay fee for infrastructure services at rates established in accordance with the legislation of the member State on whose territory the infrastructure is, and to make other payments due in the amount, terms and conditions stipulated in the contract;

7) recover amount of the costs incurred by the operator of infrastructure in connection with the relocation (moving) cars (trains) and (or) sludge rolling carriers at stations not covered by separate contract;

8) notify the infrastructure operator in written form on the refusal from the services provided by the contract, under the terms established by the legislation of the member State on whose territory the infrastructure is located;

9) to ensure harmonization and compliance with the conditions of the railway transportation of goods to special conditions, oversized cargo in accordance with the legislation of the member State on whose territory infrastructure is located;

10) provide transportation within the agreed scope and matching certain parameters (conditions) railway carriage carrying capacity of railway infrastructure sites and (or) processing capacity of railway stations along the route of the cargo;

11) compensate damage to infrastructure operator and (or) to the third parties;

12) perform other duties specified in the contract and the legislation of the member State on whose territory the infrastructure is located.

32. The infrastructure operator shall have the right to:

1) take measures to ensure safety, including:

install temporary and permanent speed restrictions on trains stations infrastructure;

stop the movement of the train station, the stretch in the cases by means of automatic detection and visual inspection of technical faults and identify commercial marriages rolling on a moving train, threatening traffic safety;

use resources (rolling stock, staff) of the carrier in the event of situations, preventing movement of trains, to restore normal operation of infrastructure;

give the carrier instructions (directives, regulations, instructions, warnings, etc.) related to the provision of railway traffic safety requirements, standards of train schedule, plan and order of formation of trains, process work stations (linear units) infrastructure;

2) demand the certificate for rail safety from the carrier on the stage of the contract, the license to perform all the activities subject to licensing for the transport;

3) demand on the stage performance of the contract from the carrier documents confirming compliance with the security of rail transport;

4) to unilaterally make changes and additions to the contract in terms of adjusting the proportion allocated bandwidth (thread graphics) in the case of carrier dedicated amount of acceptance rate infrastructure area not fully than established schedule of trains;

5) decide on the relocation (moving) and sludge carriers rolling stock at the station, where there are free travel opportunities for its sludge, or local infrastructure, in the case of carrier infrastructure for breach of contract;

6) refuse access to the carrier infrastructure for reasons beyond the operator infrastructure reasons (caused by third parties, including the adjacent (neighboring) railway administrations and (or) local infrastructure owners) without recognition of such facts breach of contract;

7) take unilateral decisions to suspend the provision of services related to transportation in certain areas of railway communication, or the provision of services is not in full, in case of emergency situations of natural and man-made disasters, as well as a state of emergency or other circumstances impeding traffic;

8) to restrict access to the infrastructure in case of emergency situations with the abolition of the distributed thread chart for the time necessary to restore the infrastructure;

9) implement other rights established by the legislation of the member State on whose territory is located infrastructure, and (or) the signed contract.

33. The infrastructure operator shall:

1) receive and consider proposals for the organization of transport carriers, as well as information and documents necessary for the provision of infrastructure services;

2) provide timely necessary information for the organization of transport in accordance with these Rules and the Rules for Access, with execution of the requirements of the legislation of the member State on whose territory the infrastructure is, including the requirements of national security, subject to the limitations set by dissemination of information, containing information relating to state secrets (the state secrets) or limited to the distribution;

3) coordinate acceptance rate of the infrastructure within the technical and technological infrastructure capacity in accordance with the Rules of access;

4) inform the carrier about the changes in train schedule, entailing a change of agreed terms and conditions of the provision of services within the time and in the manner specified in the contract;

5) notify the carrier, under the conditions defined in the contract, of an accident, damage to infrastructure and other circumstances that may create an obstacle to the carrier to carry out its activities using the infrastructure;

6) ensure protection of information constituting commercial (proprietary) secret carriers, which became known to the operator infrastructure from the provision of infrastructure services;

7) keep the necessary technical equipment in good condition and to take measures to prevent and eliminate breaks in the movement of trains, arising from natural or technological accidents;

8) perform other duties specified in the contract and the legislation of the member State on whose territory the infrastructure is located.



## VII. Settlement of Disputes

34. All the disputes between the carrier and infrastructure operator arising in the implementation of these Rules or in the provision of services shall be settled through negotiations.

35. If during the negotiations the carrier infrastructure operator cannot reach mutual agreement, all disputes are resolved in accordance with the legislation of the member State on whose territory the infrastructure is located.

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Appendix  
to the Rules of Providing Services of the Railway  
Infrastructure in the Framework  
of the Eurasian Economic Union

List of services infrastructure railway transport

No Republic of Belarus Republic of Kazakhstan\*Russian Federation\*\*

1 Provision of infrastructure and implementation of required activities of the movement (passing) trains, including electricity traction rolling stock carrier

Provision of infrastructure and implementation of required activities of the movement (passing) trains Provision of infrastructure and implementation of required activities of the movement (passing) trains, including electricity traction rolling stock carrier

2 Provision of infrastructure and implementation of the necessary work for shunting movements, including electricity traction rolling stock carrier Provision of infrastructure and implementation of the necessary work for shunting movements

Provision of infrastructure and implementation of the necessary work for shunting movements, including electricity traction rolling stock carrier

3 Services for technical and commercial controls to ensure the safety of trains and transported goods, luggage and cargo — Services for technical and commercial controls to ensure the safety of trains

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\* Including areas for infrastructure belonging to the Republic of Kazakhstan in the territory of the Russian Federation;

\*\* Including areas for infrastructure belonging to the Russian Federation in the territory of the Republic of Kazakhstan.

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ANNEX 25  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Regulation of Procurement

I. General Provisions

1. This Protocol is developed in accordance with Section XVII of the Eurasian Economic Union treaty (hereinafter – Treaty) and defines the regulatory framework for the procurement.

2. Definitions used in Section XXII of the Treaty and this Protocol mean the following:

“web portal” - official website of the member State on the Internet, providing a single point of access to information on procurement;

“customer” - state authority, local government, budget-funded organization (including government (municipal) institutions), as well as other persons in cases specified by the legislation of the member State on procurement who conduct procurement in accordance with this legislation. Procurement legislation of a member State can provide for the establishment (operation) of a procurement organizer, whose activity is conducted in accordance with this legislation. It shall not be permitted to transfer the functions of the customer to conclude procurement agreements (contract) to the procurement organizer;

“procurement” – government (municipal) procurements, which shall be understood as purchase goods, works, services by customers, and other purchases financed by the budget and other funds in the cases stipulated in the procurement legislation of the member State, as well as relationships associated with the performance of the agreements (contracts) for procurement;

“procurement information” - a notice of the procurement, procurement documentation (including the draft procurement agreement (contract)), changes to such notification, documentation, explanations of procurement documentation, protocols, elaborated in the procurement process, information on a result of the procurement procedure, details of procurement agreements (contracts) and the addendum to such agreements, information about the result of execution of the procurement agreement (contract), information on the receipt of complaints to the competent regulatory and (or) controlling authorities of the member State in the field of procurement, about their content and decisions taken as a result of consideration of these complaints, the prescriptions issued by such bodies. Procurement information is subject to mandatory placement on the web portal;

“national treatment” - a regime, providing that each member State shall provide for the procurement of goods, works and services originating on the territories of member States, the potential vendors and suppliers of the member States offering such goods, works and services, treatment no less favorable than that accorded to domestic goods, works and services, as well as potential suppliers and providers of the state, offering such goods, works and services. Country of origin of goods shall be determined in accordance with the rules of origin of goods, operating on the customs territory of the EAEU;

“electronic trading platform operator (electronic platform operator)” - a legal entity engaged in entrepreneurial activity or a natural person who, in accordance with the legislation of the member State owned electronic trading platform (electronic platform) necessary for its operation software and hardware, and (or) provides its operation;

“supplier” - a supplier or Contractor and performer who has signed the Agreement (contract) for the purchase;

“potential supplier” - any legal entity or any individual (including a sole proprietorship);

“electronic trading platform (electronic platform)” - an Internet site that is defined in accordance with the legislation of the member State on the procurement for the purchasing in electronic format. At the same time the legislation of a member State of the procurement can be found that the electronic trading platform (e-platform) shall be a web

portal, and shall be determined by a limited number of electronic trading platforms (electronic platforms);

“electronic procurement form” - procedure of organization and procurement carried out by using the Internet, web portal and (or) electronic trading platform (electronic platform), as well as software and hardware.

3. If the legislation of a member State establishes other meanings than those established by this Protocol, bringing the legislation of a member State in accordance with this Protocol is not required.

## II. Procurement requirements

4. Methods of procurement in the member States shall be:

open tender including steps of conducting and prequalify (hereinafter - tender);

request a price proposals (request for price quotation);

request for proposals (if the legislation of a member State shall required);

open electronic auction (hereinafter - the auction);

exchange trading (if the legislation of a member State shall require);

procurement from a single source or a single supplier (performer, contractor).

Member States shall provide a competition and auction in electronic format only and tend to transition to electronic format by implementation of other procurement methods.

5. Procurement through an open tender shall be conducted based on the requirements provided for in paragraph 1 of Appendix No. 1 to this Protocol.

6. Procurement through the request of price proposals (request for quotations) shall be conducted based on the requirements provided for in paragraph 5 of Appendix No. 1 to this Protocol.

7. Procurement through the request of proposals shall be conducted based on the requirements provided for in paragraph 6 of Appendix No. 1 to this Protocol, in cases provided for Appendix No. 2 to this Protocol, as well as in the cases provided for in

paragraphs 10, 42, 44, 47, 59 and 63 Appendix No 3 to this Protocol, if it is established by the legislation of the member State on procurement.

8. Procurement shall be conducted through an auction based on the requirements provided for in paragraph 7 of Appendix No 1 to this Protocol, in accordance with Appendix No. 4 to this Protocol.

A member State has the right to establish in its procurement legislation wider range of goods and services to be procured through an auction.

9. Commodity Exchange may be used for the procurement of commodity exchange goods (including goods covered by Appendix No. 4 to this Protocol).

The member State has a right to determine in its procurement legislation commodity exchanges, where the procurement can be conducted.

10. Procurement from a single source or from a single supplier (performer, contractor) shall be conducted based on the requirements set forth in paragraph 10 of Appendix No. 1 to this Protocol, in cases provided for Appendix No. 3 to this Protocol.

The member State has a right to reduce a list of goods and services in its procurement legislation on procurement specified in Appendix No 3 to this Protocol.

11. The member State has a right to unilaterally establish in its procurement legislation specifics of conducting procurement related to the need for confidentiality of information about potential suppliers before the end of the procurement, and in exceptional cases for a period of not exceeding 2 years – specifics of conducting procurement of certain goods, works and services.

Decisions and actions regarding the establishment of such specifics shall be taken in the manner prescribed in paragraphs 32 - 33 of this Protocol.

12. Procurement shall be conducted by the customers themselves or by involving procurement organizer (if the legislation of a member State provides for the operation of the procurement organizer).

13. The procurement legislation of the member States shall provide for the formation and maintenance of the Register of Unfair Suppliers, which shall contain information:

on potential suppliers, avoiding the conclusion of agreements (contracts) on procurement;

about the suppliers, non-performing or improperly performed its obligations under the Agreements (contracts) for procurement with them;

on the suppliers, with whom customers unilaterally terminated the procurement agreements (contracts) during the execution of which it was revealed that the supplier does not comply with the requirements of the procurement documentation to potential suppliers (suppliers) or provided misleading information about its compliance with such requirements, allowing him to become a winner.

The procurement legislation of the member States may provide for including to the Register of Unfair Suppliers of information on founders, members of the collegial executive bodies, persons performing functions of the sole executive body of the person.

Inclusion in the register of unfair suppliers provided upon confirmation of information (fact-finding) under subparagraphs second - fourth of this paragraph on the basis of court judgment and (or) authorized regulatory and (or) the supervisory authority of the member State in the field of procurement for 2 years.

A person, whose details are included in the register of unfair suppliers, shall have the right to appeal in this register in court.

Member States' legislation on procurement shall provide exceptions in respect of the inclusion in the register of unfair suppliers and potential suppliers' providers identified under paragraphs 1 and 6 of Appendix No. 3 to this Protocol.

14. The procurement legislation of member States may provide for a right or obligation of the customer to carry out admission to a purchase on the basis of information contained in the register of unfair suppliers that member State and (or) in the register of unfair suppliers of other member States.

15. Member States restrict admission to a procurement:

1) by establishing, in accordance with its procurement legislation, additional qualification requirements for potential suppliers on the procurement of certain goods and services;

2) by other ways established by this Protocol.

16. The procurement legislation of member States shall prohibit:

- 1) to be included in any procurement conditions not measured quantitatively and (or) unmanaged requirements for suppliers and potential suppliers;
- 2) for admission to participate in the procurement of potential suppliers of non-compliant documentation of the procurement;
- 3) the refusal to admit for potential suppliers to participate in the procurement on grounds not provided for the notification of the procurement and (or) the procurement documentation.

17. It is not admissible to charge a fee for potential suppliers involved in the procurement, except in cases stipulated by the procurement legislation of the member States on the procurement.

18. The legislation of the member States may establish procurement requirements to potential suppliers on software applications for participation in the procurement, as well as on the enforcement of the Agreement (contract) for the purchase.

Member States' legislation on procurement set the size and form of the security application for participation in the procurement and enforcement of the Agreement (contract) for the purchase. The amount of software applications for the purchase should not exceed 5 percent of the initial (maximum) Contract price (contract) for the purchase of (the estimated cost of procurement), and enforcement of the Agreement (contract) for the purchase of - 30 per cent of the initial (maximum) Contract price (contract) for the purchase of (the estimated value of procurement), except case when the Agreement (contract) for the purchase of advance payment is provided. In this case, the size of enforcement of the Agreement (contract) for the purchase shall be at least 50 percent of the size of the advance.

In case of the Agreement (contract) for the purchase contain the requirement to provide advance provider, the provider shall have the right to refuse it.

Member States' legislation on procurement should be set at least two ways (s) to secure an confirmation for participation in the procurement and enforcement of the Agreement (contract) for the purchase.



At the same time to secure an application for participation in the procurement and enforcement of the Agreement (contract) for the purchase of accepted including:

guarantee monetary contributions paid into the bank account of the Customer;  
bank guarantee.

Requirements for bank guarantees for procurement established by the legislation of the member States.

Member States' legislation on procurement should ensure timely return of the Customer to ensure the application for participation in the procurement and enforcement of the Agreement (contract) for the purchase of potential suppliers and vendors in the cases provided for in this legislation.

19. The documentation of procurement and other documents in procurement shall not be included requirements (instructions) to trademarks, service marks, trade names, patents, utility models, industrial designs, the appellation of origin, producer or supplier, except when there is no other sufficiently precise way of describing the characteristics of the object of procurement (in such cases the Customer includes documentation for the purchase of the words "or equivalent (analogue)"). The exception is the incompatibility of the purchased goods to the goods used by the Customer when necessary to ensure the compatibility of such products (including resupply, upgrading and retrofitting the main (set) equipment).

Customer shall be entitled to set the standard indicators, requirements, symbols and terminology relating to the technical and quality characteristics of the object of procurement as determined in accordance with technical regulations, standards and other requirements stipulated by international treaties and acts constituting the right of the EAEU, and (or) the law of the member State.

20. Commission members (including tender, auction and bidding) shall not be individuals, personally interested in the results of procurement (including individuals who have filed an application for participation in the contest, auction, request for price quotations (request for quotations) or query proposals), workers of potential suppliers that have applied to participate in the contest, auction, Request for Quotations (request for quotations) or request for proposals, or to natural persons who are capable of influencing

potential providers (including individuals who are the members (shareholders) potential suppliers, their employees and government creditors potential suppliers), as well as directly exercising control in procurement officials authorized to regulate and (or) the controlling authorities of the member State in procurement.

21. The Agreement (contract) for the purchase should contain the following mandatory prerequisites:

1) The responsibility of the parties for failure or improper performance provided by such Agreement (contract) for the purchase of obligations;

2) the procedure for payment and Customer acceptance of the result of the procurement for the evaluation of its compliance (including the amount (volume), completeness, quality) requirements established by the Agreement (contract) for the purchase.

22. The law of the member States on procurement shall be provided for the prohibition:

1) to establish the conditions of the Agreement (contract) for the purchase of which entail limiting the number of potential suppliers and suppliers in cases not provided for by the legislation of the member States;

2) the unilateral refusal to Customers and suppliers of contractual obligations in the case of the proper performance of the other party under the Agreement (contract) for the purchase of and in cases not provided for by the legislation of member State;

3) to change the terms of the contractual obligations, including changes in the price of the Agreement (contract) for the purchase of, except in cases stipulated by the legislation of the member States of the procurement. Not allowed reducing the number of goods, volume of works and services without a proportional reduction in the price of the Agreement (contract) on the purchase.

23. Allowed to sign the Agreement (contract) for the purchase of multiple suppliers in the cases provided by the legislation of the member States.

24. The legislation of the member States on the procurement shall be established requirement of the Agreement (contract) for the purchase of providing for the purchase of

goods or work, subsequent maintenance, operation over the lifetime, repair and disposal of goods delivered or created as a result of the object (contractual life cycle).

25. The legislation of the member States on the procurement in respect of a particular procurement shall be provided need to include in the draft Agreement (contract) for the purchase of which is an integral part of the procurement documentation, additional conditions of its execution (including non-subject procurement).

26. The legislation of the member States on the procurement shall provide for an obligation of the potential supplier and (or) the supplier to provide the Customer information on all co-executors and subcontractors under the Agreement (contract) for the purchase.

27. The legislation of the member States of the procurement shall provide banking support for the procurement agreement (contract).

28. Member States shall seek to switch to the conclusion of procurement agreements (contracts) in electronic format before 2016.

29. Member States shall ensure openness of information and transparency of procurement, including by:

- 1) creation of web portal by each member State;
- 2) publication (posting) of information on procurement, registry of unfair suppliers (including in Russian language) on the web portal;
- 3) publication (posting) on the web portal of normative legal acts of the member State in the field of procurement (including in Russian language);
- 4) identify a limited number of electronic trading platforms (electronic platforms) and (or) a web portal as a single point of access to information on procurement in electronic format to electronic services related to such procurements, if the procurement legislation of the member State provides for it;
- 5) organization of unhindered and free of charge access to information on procurement, the registry of unfair suppliers and acts that shall be hosted on the web portal, as well as ensuring the widest possible search for information of such information, the registry and acts.

### III. National treatment and its security features

30. Each of member States grants national treatment in procurement to goods, works and services, originating in the territories of other member States, as well as potential suppliers and suppliers of other member States offering such goods, works and services.

31. The member State is entitled in exceptional cases to unilaterally establish by its procurement legislation exemptions from the national treatment for a period of not exceeding 2 years.

32. The authorized regulatory and (or) the supervisory authority of the member State in the field of procurement in advance, but no later than 15 calendar days before the date of the act establishing exemptions in accordance with paragraph 31 of this Protocol, in writing, notify the Commission and each of the member States of the intention of making such an act on the rationale for its decision.

Member State which has received such notice may apply to the body which sent such notice to him with a proposal to conduct appropriate consultations.

The member State which has sent such a notice should not refuse to conduct consultations.

33. The Commission shall make a decision to cancel the act establishing exemptions adopted by a member State in accordance with paragraph 31 of this Protocol, within 1 year from the date of its adoption.

In the case of the Commission's decision on the need to repeal the said act has taken its member State shall ensure in 2 month period taking relevant changes in the act (its invalidation).

The Commission's consideration of notifications of acts in accordance with paragraph 31 of this Protocol and requests of member States on their withdrawal, as well as the Commission's decision on the need to abolish such acts shall be carried out in the manner determined by the Commission.

If after 2 months from the date of entry into force of the decision of the Commission on the need to abolish the act adopted in accordance with paragraph 31 of

this Protocol, the member State in respect of whom the judgment did not execute it, each of the other member States has unilateral right not to accord national treatment to the member State. The relevant notification shall be immediately sent to the Commission and each member State.

34. If the member State fails to fulfill its obligations under this Article, the other member States shall apply to the Commission. Upon review of the appeal the Commission shall take one of the following decisions:

the absence of a violation;

on the recognition of the need to eliminate violations and member State of the violation.

If after 2 months from the date of the decision on the need to eliminate the identified violations, the member State in respect of which such a decision, it does not comply with each of the other member States shall have the right to unilaterally not to extend national treatment to such member State .

Notification immediately shall be sent to the Commission and each member State.

#### IV. Safeguarding the rights and lawful interests of individuals when participating in procurement

35. Each member State shall take measures to prevent, detect and suppress violations of its procurement legislation.

36. The volume of provided rights and lawful interests of individuals in the field of procurement is defined by the Protocol and the procurement legislation of the member States.

37. To ensure the rights and lawful interests of individuals in the field of procurement, as well as to monitor compliance with the procurement legislation of the member State, each member State in accordance with its legislation ensures that the authorized governing and (or) the controlling authorities in procurement . If it is allowed to perform these functions, one body, whose powers include:

1) Control of procurement (including through inspections);

2) consideration of complaints and appeals for action (or inaction) of Customers purchasing the organizers, operators of electronic trading platforms (electronic platforms), operators, web portals, commodity exchanges, commissions and other entities for the procurement of violating the legislation of a member State of the procurement. However, actions (inaction) of customers purchasing the organizers, operators of electronic trading platforms (electronic platforms), operators, web portals, commodity exchanges, commissions and other entities for the procurement made before the deadline for submission of applications for participation in the procurement of the right to appeal is not Once any potential supplier, but also a person in accordance with the legislation of the member State of the procurement;

3) prevention and detection of violations of the law of the member State of the procurement, as well as measures to address these violations (including by issuing a binding order to eliminate such violations and bring the perpetrators to justice for such violations);

4) establishment and maintaining of a registry of unfair suppliers.

#### V. Ensuring measures to improve the efficiency of procurement and implementation aimed at social functions

38. The procurement legislation of a member State shall set the requirement for procurement planning.

39. The procurement legislation of a member State may stipulate following rules designed to ensure the effectiveness of procurement:

1) rationing procurement by establishing requirements for goods, works and services (including the marginal price of goods and services) and (or) legal costs of providing the functions of customers;

2) implementation of public scrutiny and public discussion of procurement;

3) application of anti-dumping measures;

4) involvement of experts and expert organizations.

40. In cases and order stipulated by the legislation on the member State of purchase can be established for the procurement of benefits for institutions and enterprises penal system, organizations of disabled persons, small and medium-sized businesses, as well as socially-oriented non-profit organizations.

Information on the establishment of such benefits is specified by the customer in the notification about conduction of the procurement and the procurement documentation.

41. If there is mutual interest in discussing the most pressing issues of law enforcement, information exchange, and the problems of improving harmonization, joint development of teaching materials, the Commission jointly with relevant regulatory and (or) the supervisory authorities of the member States in the field of procurement holds regular meetings at the experts and managers in the state (municipal) procurement.

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Appendix 1  
to the Protocol on  
Regulation of Procurement

Requirements  
for Organizing and Conducting  
Competition, Price Proposals Request (Request for Quotation), Request for Proposals,  
Auction and Procurement from a Single Source or a Single Supplier (Performer,  
Contractor)

1. Competition is held in electronic format, including providing for filing of applications for participation in the competition in the form of an electronic document.

The winner shall be the potential supplier to offer the best conditions for the execution of the Agreement (contract) for the purchase.

Imposition of assessment criteria and the procedure for the evaluation and comparison of applications for participation in the competition, entailing biased and (or) the definition of unmanaged provider does not comply with the legislation of the member State procurement.

2. Competition is held with the following requirements:

1) Approval of the tender documentation;

2) approval of the tender committee;

3) Publication (placement) on the web portal of tender notice and tender documentation within the time stipulated by the legislation of the member State of the procurement, but not less than 15 calendar days before the deadline for applications to participate in the competition. In case of changes in the notice of the competition and (or) tender documentation deadline for participation in the competition is extended so that the date of publication (placement) on the web portal changes before the deadline for applications to participate in the competition this term was not less than 10 calendar days. It is not allowed to change the subject of the Agreement (contract) for the purchase;



4) Clarification of tender documentation and publishing (publishing) such explanations on its website no later than three calendar days before the deadline for filing applications for participation in the competition. Clarification of tender documentation provided on request if it is received not later than 5 calendar days before the deadline for applications to participate in the competition;

5) call for participation in the competition in the form of an electronic document on the electronic trading platform (electronic platform) and (or) web portal;

6) autopsy, examination of the competitive commission of applications for participation in the contest to determine the applications that meet the requirements of the tender documentation, the purpose of admission of potential suppliers to participate in the competition;

7) publishing (publication) web portal autopsy, examination of applications for participation in the competition and tolerance of potential suppliers to participate in the contest and inform each potential supplier on the results of an autopsy, examination and approval not later than the day following the day the competition commission relevant decisions;

8) assessment, a comparison of applications for participation in the tender submitted by potential suppliers admitted to participation in the contest, as well as to determine the winner of the contest and publishing (publishing) on the web portal of the relevant protocol, informing each potential supplier on the results of such evaluation, comparison and determination the winner no later than the day following the day the competition commission of relevant decisions;

9) Finally, the Agreement (contract) for the purchase of the conditions specified in the application for participation in the competition potential supplier certain winner, and in the tender documentation no earlier than 10 business days and no later than 30 calendar days from the date of the decision on the winner of the contest or recognition contest invalid in cases stipulated by the legislation of the member State procurement. Legislation of member State procurement also set the order and priority of the Agreement (contract) for the purchase of between the Customer and the potential supplier on the basis of the need to conclude the Agreement (contract) for the purchase of a potential vendor to

provide the best conditions for the execution of the Agreement (contract) for the purchase, as well as procedures in case the Customer competition failed;

10) publishing (publishing) of information about the result of the competition on the electronic trading platform (electronic platform) and (or) web portal and inform each potential supplier of the competition results not later than the day following the day the auction commission appropriate decisions.

3. During the competition, providing prequalify, the requirements referred to in paragraph 2 of this Appendix shall be with the following features:

1) The winner is determined by the number of potential suppliers prequalified;

2) Additional requirements apply for the implementation of pre-qualification and cannot be considered as a criterion for assessing applications for participation.

4. In the cases and manner specified by the legislation of a member State, the competition can be conducted in two stages.

At the 1st stage of the competition held building activities expert (expert committee) technical specification of goods, works and services on the basis of technical proposals from potential suppliers, developed in accordance with Customers' specifications.

At the 2nd stage of the competition held the activities outlined in the competition to meet the requirements specified in paragraph 2 of this Appendix.

5. For the price proposals request (request for quotation) the law of the member State Procurement determined limit the initial (maximum) contract price (contract) for the purchase of (cost of purchase), including the procurement of goods, works and services on the list in accordance with Appendix No. 4 of the Protocol on the procedure of procurement regulation (Appendix No. 25 to the Agreement on the Eurasian Economic Union).

Winner quotations request (request for quotation) recognized the potential supplier who offered the lowest price of the Agreement (contract) for the purchase. Any member State shall seek to move from holding quotations request (request for quotation) primarily to conduct auctions.

At the request of the quotations (request for quotation) on its website published (hosted) notice of its holding in the terms established by the legislation of the member

State procurement, but not less than 4 working days before the deadline for submitting applications to participate in the Request for Quotations Proposals (request for quotations). Protocols of the commission, composed during the quotations request (request for quotation), published (posted) on the electronic trading platform (electronic platform) and (or) web portal and notification of decisions taken by bidding commission sent to each potential supplier no later than the day following the date of their adoption.

6. Purchases through request for proposals shall be made in respect of the goods and services provided by Appendix No. 2 of the Protocol on the procedure of the procurement regulation (Appendix No. 25 to the Agreement on the Eurasian Economic Union). The winner of the query proposal shall recognize the potential supplier, to offer the best conditions for the execution of the Agreement (contract) for the purchase of in accordance with the laws member State procurement.

When conducting procurement through the RFP on its website published (hosted) notice of its holding in the terms established by the legislation of the member State of the procurement, but not less than 5 working days before the deadline for applications to participate in the RFP.

Protocols of the commission, made during the request for proposals, published (posted) on the electronic trading platform (electronic platform) and (or) web portal, and notification of the Commission's decision sent to each potential supplier no later than the day following the date of their adoption.

7. In order to participate in auctions potential suppliers are subject to mandatory accreditation for at least 3 years on the web portal and (or) electronic trading platform (electronic platform), if the legislation of the member State procurement.

The winner of the auction shall be the potential supplier with the lowest price of the Agreement (contract) for the purchase and the corresponding requirements of the auction documentation.

8. Public electronic auction shall be held with the following requirements:

- 1) approval of the auction documentation;
- 2) approval of the auction committee;

3) placing the electronic trading platform (electronic platform) and (or) web portal notice about the auction and the auction documentation within the time stipulated by the legislation of the member State of the procurement, but not less than 15 calendar days before the deadline for applications to participate in the auction. In case of changes in the notice of the auction and (or) the auction documentation deadline for participation in the auction is extended so that the date of publication (placement) on the electronic trading platform (electronic platform) and (or) web portal made changes prior to the deadline for applications to participate in the auction, this period is not less than 7 calendar days. It is not allowed to change the subject of the Agreement (contract) for the purchase. If the legislation of a member State Procurement provided the initial (maximum) Contract price (contract) for the purchase of (cost of procurement), in which the auction is possible in a shorter period, the legislation of a member State of the procurement can be set shorter time limits for filing Applications for participation in the auction, than provided for in this subparagraph, but not less than 7 calendar days before the deadline for applications to participate in the auction, and in case of changes in the auction documentation - not less than 3 calendar days before the deadline for submission of applications for participate in the auction from the date of publication (placement) on the electronic trading platform (electronic platform) and (or) web portal for such changes;

4) Clarification of the auction documentation and publishing (publishing) such explanations on the electronic trading platform (electronic platform) and (or) web portal no later than three calendar days before the deadline for filing applications for participation in the auction. Clarification of the auction documentation provided on request if it is received not later than 5 calendar days before the deadline for applications to participate in the auction;

5) call for participation in the auction in the form of an electronic document on the electronic trading platform (electronic platform) or a web portal;

6) autopsy and examination of the Auction Commission applications for participation in the auction to determine the applications that meet the requirements of the auction documentation regarding the admission of potential suppliers submitting to the procedure specified in paragraph 8 of this paragraph;

7) publishing (publishing) on the electronic trading platform (electronic platform) and (or) web portal autopsy, examination of applications for participation in the auction and the admission of potential suppliers to the procedure specified in paragraph 8 of this paragraph and shall inform each potential supplier of the results of such an autopsy, examination and approval not later than the day following the day the tender committee of the relevant decisions;

8) conducting procedures to mitigate the initial (maximum) Contract price (contract) for the purchase of (the estimated cost of procurement) by lowering the price on the auction. At the same time the legislation of a member State of the procurement can be provided that in case of price reduction Agreement (contract) for the purchase of up to 0.5 percent of the initial (maximum) Contract price (contract) for the purchase of (the estimated value of procurement) and lower auction continues through Gainers Agreement (contract) for the purchase of which in this case, the Customer pays the supplier;

9) publishing (publishing) Protocol on the results of the procedure referred to in paragraph 8 of this paragraph, the electronic trading platform (electronic platform) and (or) web portal and inform each potential supplier on the results of such a procedure on the day of its closure;

10) Consideration of the Auction Commission applications for participation in the auction of potential suppliers who participated in the procedure referred to in paragraph 8 of this paragraph, to identify potential suppliers that meet the requirements stipulated by the auction documentation, and determine the winner of the auction, as well as publishing (publishing) Protocol about it on the electronic trading platform (electronic platform) and (or) web portal and informing each potential supplier on the results of such review and determine the winner of the auction is not later than the day following the day the auction commission relevant decisions;

11) Finally, the Agreement (contract) for the purchase of the conditions specified in the application for participation in the auction of the potential supplier, a certain winner in the auction documentation, at a price Agreement (contract) for the purchase of such potential supplier according to the Protocol on the results of the procedure in paragraph 8 of this paragraph shall not be earlier than 10 working days and no later 30 calendar days

from the date of the decision on the winner of the auction or the auction is invalid in cases stipulated by the legislation of the member State procurement. Legislation of member State procurement order and priority set to sign the Agreement (contract) for the purchase of between the Customer and the potential supplier on the basis of the need to conclude an Agreement (contract) for the purchase of a potential vendor to provide the lowest price Agreement (contract) for the purchase, as well as procedures Customer in case the auction is invalid;

12) publishing (publishing) of information about the auction on the electronic trading platform (electronic platform) and (or) web portal and inform each potential supplier on the outcome of the auction is not later than the day following the day the auction commission appropriate decisions.

9. If the legislation of a member State of the procurement, purchasing, permitted, without application of the rules, governing the selection of the supplier and signed the Agreement (contract) for the purchase. In addition, these purchases are made in accordance with the civil law of the member State in cases stipulated by the Appendix No. 3 of the Protocol on the procedure of procurement regulation (Appendix No. 25 to the Agreement on the Eurasian Economic Union).

10. Purchase from a single source or a single supplier (contractor, contractor) performed in the presence of calculation and justification of the Contract price (contract) for the purchase. Requirements for the placement of information on procurement from a single source or a single supplier (contractor, artist) determined by the legislation of the member State procurement.

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Appendix 2  
to the Protocol on Regulation  
of Procurement

List  
of Cases of Procurement by the Request for Proposals

1. Procurement of goods, works or services that are the subject of the Agreement (contract) for the purchase of, termination is performed by the Customer to meet the requirements of paragraph 21 of the Protocol on the procedure of procurement regulation (Appendix No. 25 to the Agreement on the Eurasian Economic Union). In the case before the termination of the Agreement (contract) for the purchase of the supplier partially fulfilled obligations under the Agreement (contract) for the purchase of, at the conclusion of a new Agreement (contract) for the purchase of this paragraph on the basis of a number of goods, the amount of work performed or services rendered should be reduced taking into account the quantity of the goods, the volume of work performed or services provided to terminate the Agreement (contract) for the purchase, and the price of the Agreement (contract) for the purchase should be reduced in proportion to a number of delivered goods, the volume of work performed or services provided.

2. Implementation of procurement of drugs needed for administration to a patient on medical indications (idiosyncrasy, for health reasons) by decision of the medical commission, which is recorded in the patient's medical records and papers of the medical commission. The volume of procured drugs shall not exceed the amount of drugs required by the patient during the period of treatment. Also, for the procurement, in accordance with this paragraph, the subject of one of the Agreement shall not be the medications necessary for the appointment of two or more patients.

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Appendix 3  
To the Protocol on Regulation  
of Procurement

List  
of Procurement Procedures from a Single Source  
or from Sole Supplier (Executor, Contractor)

1. Procurement of services related to the sphere of natural monopolies activities, except for liquefied natural gas sales services, as well as the connection (joining) to the engineering networks for the controlled prices (tariffs) in accordance with the law of the member State, power services or electrical power sale with guaranteed supply company.

2. Procurement of services for storage and import (export) of narcotic drugs and psychotropic substances.

3. Acquisition of goods, works and services at prices (tariffs), established by the legislation of member State.

4. Supply of cultural properties (including museum and museum collections, as well as rare and valuable editions, manuscripts, archival documents, including copies of historical, artistic or other cultural value) intended to replenish the state museum, library, archive funds, cinema, photo-funds, and other similar funds.

5. Execution of work on mobilization preparation.

6. Procurement of goods, works and services from a particular person, defined by legislative act of member State, as well as procurement of goods, works and services, delivery, execution or rendering of which shall be carried out exclusively by executive authorities in accordance with their empowerment or by subordinate state institutions, by public (unitary) enterprises, by legal bodies, 100 percent of voting shares (partnership share) of which belong to the state, the corresponding empowerment of which is established by legislative acts of member State.

7. Procurement of certain goods, works and services in consequence of force-major circumstances, including emergency situation (localization and (or) mitigation of



emergency situations consequences), accidents, need for urgent medical intervention, wherefore procurement by other means that require time consumption is inadvisable.

8. The procurement of goods, works and services from the institutions and institutions of the penal systems, occupational therapy (work therapy), preventative clinics and occupational therapy (work therapy) workshops, as well as from the organizations, created by the public association of people with disabilities, in which a number of disabled people is not less than 50 percent of staff.

9. Procurement of raw materials, materials and components by penal institution for production of goods, works and services in order to place in a job convicted persons on the basis of contracts, concluded with legal entities, provided that the procurement by the specified institutions of such raw materials, materials and components is carried out at the expense of the funds, provided by these contracts.

10. Procurements, which were cancelled according to the results of procurement procedures (in cases provided by legislation of member State).

11. Telecommunications services for the needs of national defense and national security, as well as enforcement of the law.

12. Determination of the maximum amount of transactions (either quarterly or annual limit volume), which shall be set by the legislation of member State and which permits to procure from a single source or from a sole Supplier (Executor, Contractor), provided that the specified size shall not have to be distinctive (member States shall endeavor to minimize this threshold in order to maximize access of potential suppliers to the procurement).

13. Placing orders for the supply of arms and military equipment from a single Supplier in accordance with the legislation of member State, as well as procurement of works, services for maintenance (modernization) of weaponry, military and special equipment.

14. Specific procurement from a potential Supplier, defined by decree or order of the President of member State, by the order of the supreme body of executive authority of member State by a decision or by order of the president of member State. Decisions and actions in relation to the adoption of such acts are carried out in the manner prescribed in

paragraphs 32 - 34 of the Protocol on the procurement regulation procedure (Appendix No. 25 to the Agreement on the Eurasian Economic Union).

15. Acquisition of work of literature and art from a certain authors (except for the purchase of movie for distribution), performances of specific performers, phonogram of specific producers in case if a single person has exclusive rights to such works, performance or phonogram.

16. Subscription for a certain periodical printed and electronic publications, as well as the procurement of printed and electronic publications of certain authors, rendering of services for provision of access to electronic publications for the activities of the state and municipal educational institutions, state and municipal libraries, public research organizations from the publishers of these printed and electronic publications in the case if specified publishers have exclusive rights to use such publications.

17. Placing order for visiting the zoo, theater, cinema, concert, circus, museum, exhibitions and sporting events, as well as the conclusion of the Agreement for services on realization of admission tickets and subscriptions to the theatrical entertainment, cultural, educational and spectacular entertainment events, excursion tickets and sightseeing tickets.

18. Acquisition of materials for exhibitions, seminars, conferences, meetings, forums, workshops, training and payment for participation in such activities, as well as the conclusion of the Agreement services to participate in the event, held for the needs of several Customers with the Supplier (Contractor, Executor) which is defined by the Customer, which is the organizer of this event, in the order established by the legislation of member State.

19. Procurement of teaching services, and services of interpreter (guide) from individuals.

20. Placing order of theatrical-spectacular organization, museum, club, cinema organization, other cultural organization, educational institution in the field of culture, broadcasting organization from a particular individual or particular individuals – writer, artist, performer, choreographer, television and radio host, designer, conductor, playwright, trainer, composer, accompanist, author of the libretto, operator of movie, video, sound recording, writer, poet, director, tutor, sculptor, choreographer, choir

director, artist and other creative workers for creation and execution of works of literature or art, as well as from a particular individual, including an individual entrepreneur or legal entity to manufacture and supply of scenery, stage furniture, costumes (including hats and shoes) and required to create scenery and costumes materials, as well as theatrical requisites, props, makeup, products, theatrical puppets required for creation and (or) performance by organizations specified in this paragraph.

21. Procurement of services for author's control of the design documentation development for capital construction projects, supervision for construction, reconstruction and repair of capital construction projects by respective authors.

22. Placing order for technical and architectural supervision on preservation of cultural heritage (monuments of history and culture) of the peoples of member States.

23. Procurement of services associated with sending of employee on a business trip, goods, works and services related to hospitality expenses, as well as purchase of services associated with sending of students, post-graduate students to participate in creative competitions (contests, competitions, festivals, games), exhibitions, plain-airs, conferences, forums, workshops, internships, performance of educational practical tasks, including travel to the venue of these activities and back, to rent premises, transportation, catering.

24. Placing order for rendering services related to the provision of visits of foreign heads of the governments, heads of foreign governments, heads of international organizations, parliamentary delegations, government delegations, delegations of foreign governments (hotels, transport services, computer devices exploitation, catering services).

25. Procurement of goods, works and services required for the safety and security of the president of a member State, other protected persons and facilities intended for protected persons stay (domestic, hotel, transport services, computer device exploitation, provision of sanitary-epidemiological well-being, provision of safe meal) as well as services to build a video archive and information services of the activities of the President of a member State.

26. Procurement of material valuables realized from the state and mobilization material reserves.

27. In case if Customer, who made a purchase from a particular supplier has need for additional quantities of the relevant goods, a number of additional purchased goods shall not exceed 10 percent of the quantity of goods covered by the Contract (unit price of additionally supplied goods shall be determined as the quotient of the original Contract price provided in the Contract amount of such goods).

28. Procurement of services for multi-compartment building management on the basis of the choice of the owners of premises in multi-compartment building or by local authority in accordance with housing legislation of management organization, if the rooms in multi-compartment building located in a private, state or municipal property.

29. Conclusion of Contract Agreement (contract) for the procurement, the subject of which is the acquisition of building, structure, premises, rooms with nonresidential purpose, defined by act in accordance with the legislation of member State, as well as rent of building, structure, premises with nonresidential purpose, procurement of services for maintenance, protection and handling of the leased premises, procurement of services for maintenance, protection and handling of one or more non-residential premises, handed over for the free use to state or municipal Customer, in case if these services are provided to other person or persons using non-residential premises located in the building in which the premises are located, handed over for the free use and (or) to the operational management.

30. The necessity for procurement of daily and (or) weekly requirements for the period before the results of the procurement and the entry into force of the Agreement (contract) for the purchase, if such purchases are carried out during the first month of the year on the list established by the legislation of member State. In this case, the volume of purchases shall not exceed the quantity of goods, facilities and services required to ensure the needs of the Customer during the term of the purchase, but not more than 2 months.

31. Procurement of goods, works and services for the implementation of operational and investigative activity, investigation by bodies authorized to carry them out, to ensure the safety of persons subject to state protection, in accordance with the legislation of member State, as well as the services of officials and experts with necessary scientific and technical or other specialized knowledge.

32. Acquisition of a right for the use of natural resources.

33. Acquisition of services for training, retraining and raising of qualification of employers abroad.

34. Acquisition of services for rating agencies, financial services.

35. Acquisition of services from specialized libraries for blind and visually impaired citizens.

36. Procurement of securities and participating interests in the charter capital (authorized capital) of legal entities.

37. Procurement of goods, works and services provided by the legislation of the member States on the elections and referendum, purchases of which are made in accordance with this List and the list of which is provided by the legislation of member States on procurement.

38. Procurement of goods, works and services carried out in accordance with international agreements of the member States, according to the list approved by the supreme executive authority of a member State, as well as within the implementation of investment projects financed by international organizations the member of which is the member State.

39. Acquisition of works and services in the design, manufacture, storage, and delivery of notes and coins of the national currency of a member State, as well as goods, works and services required for their design and manufacture.

40. Procurement of goods, works and services related to the use of funds provided by the supreme executive authority of a member State to the national (central) banks of member States on a grant basis of the countries, governments, international and governmental organizations, foreign non-governmental organizations and foundations whose activities have charitable and international character, as well as funds allocated to co-finance of these grants in cases when in the agreements on their provision stipulated other procedures for procurement of goods, works and services.

41. Acquisition of services related to the state educational order for individuals (in case if the individual has chosen educational organization himself).

42. Procurement of services for treatment of citizens of member States abroad, as well as services for their transportation and escort.

43. Procurement of goods and services that are subject to intellectual property, the person who has exclusive rights in respect of goods and services purchased.

44. Procurement of goods, works and services by foreign institutions of the member States, separate divisions of Customers acting on their behalf, to ensure their activities on the territory of a foreign state, as well as for peacekeeping operations.

45. Procurement of goods on information services by international news organizations.

46. Procurement of goods, works and services required for the implementation of monetary operations and management activities national fund of the member State and pension assets.

47. Procurement of advisory and legal services to protect the interests of the member State in case of application by physical and (or) legal entities in the courts of foreign states, international courts and arbitration claims against the member State with the need to attract foreign specialists and (or) specialists of member States, experts and lawyers for such services.

48. Procurement of services associated with trust administration of property from a person, determined by the legislation of member State.

49. Procurement of services for statistical observations' data processing.

50. Procurement of property (assets) sold at auction (auction) by bailiffs in accordance with the legislation of the member State regarding enforcement proceedings conducted in accordance with the legislation of the member State concerning the bankruptcy, land legislation and the privatization of state property.

51. Acquisition of services rendered by lawyers to persons released from their payment in accordance with the legislation of member State.

52. Acquisition of goods into the state material reserve to make the regulatory impact on the market if as stipulated by applicable legislation of member State.

53. Acquisition of services for material values storage of state material reserves.

54. Procurement of services for cosmonaut preparation and flights management of astronauts into space as stipulated by the legislation of member State, as well as services for design, assembly and testing of spacecrafts.

55. Acquisition of services for repair aircrafts on specialized aircraft repair enterprises.

56. Acquisition of services for the production of state and departmental awards and accompanying documents, lapel badge of deputy of legislative authorities of member State, and accompanying documents, the state verification marks, passports (including official and diplomatic), identity cards of citizens of member State, registration certificate of a foreigner in member State, authorization document of a person without citizenship, certification of vital record, as well as acquisition from suppliers, defined by supreme executive authority of the member State of printed materials requiring special protection, according to the list approved by the supreme executive authorities of a member State.

57. Procurement of precious metals and gemstones to replenish state funds of precious metals and gemstones.

58. Acquisition of services for compulsory medical examination of workers engaged in heavy works or jobs with harmful (particularly harmful) and (or) hazardous working conditions, as well as jobs associated with increased risk, with vehicles and machinery.

59. Acquisition of sports facilities and equipment (kit), sport outfit required for participation and (or) the preparation of sports national and picked teams of member States, as well as for participation of sports national and picked teams of member States in the Olympic, Paralympics, and Deaflympics and other international sporting events on the basis of the schedule approved by a agency of State administration realizing regulation in this area.

60. Acquisition of goods, works and services using the funds allocated from the reserve of the president or government of member States for emergency expenses in case of occurrence of threatening situations to political, economic and social stability of a member State or a political subdivision.

61. Acquisition of goods, works and services required for the operation of special forces of law enforcement and special government agencies associated with the detection

and neutralization of explosives and explosive devices, conducting anti-terrorist operations, as well as special hostage release operations, apprehension and neutralization of armed criminals, extremists, terrorists, members of organized crime groups, perpetrators of grave and especially grave crimes.

62. Acquisition of special, social services provided by a guaranteed amount of social services provided to persons (families, consisting of persons) with a permanent disability of the body, caused by physical and (or) mental capabilities, and (or) to persons with no fixed abode, and to persons (families consisting of individuals) who are incapable to look after themselves due to old age, as well as services for assessing and determining the need in special social services.

63. Acquisition of folk artistic crafts products, in cases as specified by the legislation of the member States.



Appendix 4  
to the Protocol on Regulation  
of Procurement

List of  
Goods, Works and Services for which Procurements shall carried out on the Basis of  
Auction

1. Agriculture production, hunting products, services in agriculture and hunting, except the live animals, products and services related to hunting, fishing and game propagation, as well as hunting products and cropping.\*
2. Forest product and forest procurement, services for forestry and forest procurement.
3. Fisheries, fish hatcheries and fish farms, services related to fishing industry.\*
4. Coal, lignite and peat.
5. Crude oil and natural gas services in their production, except for survey operations.
6. Metal ores.
7. Stone, clay, sand and other types of minerals.
8. Foodstuff and potables.\*
9. Textile and textile products.
10. Clothing, fur and fur goods, except children's clothing.
11. Leather and leather products, saddler, except footwear.
12. Wood, woodwork, cork, straw and plating, except furniture.
13. Cellulose, paper and paperboard and articles made wherefrom.
14. Printing and publishing products, except for advertizing materials, pictures, drawings, printed photographs, souvenir and gift sets (notepads and notebooks), ballot papers for elections and referendums.
15. Coke-oven products.
16. Products of organic and inorganic synthesis.

17. Rubber and plastic products.
18. Other nonmetallic mineral products, except of housekeeping glass products, products for interiors, as well as non-constructional non-refractory ceramic products.
19. Metal industry products.
20. Metal products, except for machinery and equipment, nuclear reactors and parts of nuclear reactors, particle accelerators.
21. Machinery and equipment not elsewhere classified, except for weapons, ammunition and their components, explosives and explosives of national economic destination.
22. Office and computing equipment.
23. Electric motors and electric installation (including electrical equipment), not elsewhere classified.
24. Equipment and instruments for radio, television and communication.
25. Medical equipment and apparatus, measuring instruments, photo and video equipment (except for medical equipment and medical devices as defined by the legislation on Procurement of member State).
26. Vehicles, trailers and semi-trailers, car bodies, parts and accessories for automobiles, garage equipment.
27. Vehicles, except for commercial and passenger ships, warships, aircraft and space vehicles, equipment and aircraft parts.
28. Off-the-shelf goods except for jewelry, and related goods, musical instruments, games and toys, equipment for training labor processes, textbooks and school equipment, products, arts and crafts, art and collectibles, exposed film, a human hair, animal, made of synthetic materials and articles thereof.
29. Waste and scrap in form suitable for use as a new raw material.
30. Services for trade, maintenance and repair of motor vehicles and motorcycles.
31. Wholesale services and commission trade services, except for motor vehicles and motorcycles business.
32. Land transport services, except for railway transport services, underground railway systems, pipeline transportation services.
33. Water transport services.

34. Auxiliary and additional transport services, services in the field of tourism and sightseeing, except for travel and tourist agencies, other services for rendering assistance to tourists.
  35. Communications, except for courier services, except for national mail, electrical communication services.
  36. Financial intermediation services, except for insurance and pension funding, services for arrangement of bonds.
  37. Auxiliary services in relation to financial intermediation, except for evaluating services.
  38. Services for the maintenance and repair of office equipment, computers and shared to peripheral equipment.
  39. Building cleaning services.
  40. Services for packaging.
  41. Waste disposal services, sanitation and similar services.
- \* In addition to the procurement in organizations engaged in education, bringing-up process for children, health organizations, social service organizations and recreation organization for children, catering services, specified institutions and organizations.

ANNEX 26  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Protection and Enforcement of Intellectual Property Rights

I. General Provisions

1. Present Protocol is developed in accordance with Section XXIII of the Treaty on Eurasian Economic Union in order to regulate relations in the sphere of protection and enforcement of intellectual property rights.

2. Intellectual property objects shall be understood as works of science, literature and art, computer programs, phonograms, performances, trademarks and service marks, geographical indications, appellations of origin of goods, inventions, utility models, industrial designs, selective achievements, layout design of integrated circuits, know-how and other objects of intellectual property protected by international treaties and acts of the EAEU and legislation of the member States.

II. Copyright and Related Rights

3. Copyright shall be extended to the works of science, literature, and art. The author of a work shall enjoy particularly the following rights:

- 1) exclusive right to a work;
- 2) right of authorship;
- 3) author's right to a name;
- 4) right to integrity of a work;
- 5) right to publish a work;
- 6) other rights established under the legislation of the member States.

4. Member States shall ensure that the terms of protection for the exclusive right to a work of author, the exclusive right to a work of joint authorship, and the exclusive right to a posthumous work shall be no less than the terms of protection under the Berne Convention for the Protection of Literary and Artistic Works of 1971 and the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization. Legislation of the member States may provide for longer terms of protection for the indicated rights.

Computer programs shall be protected as literature works according to the Berne Convention for the Protection of Literary and Artistic Works of 1971.

Compound works (encyclopedia, collection and other works) that result from creative activity shall be protected without prejudice to the rights of authors of every work that represents the part of the compound work. Author of the compound work shall enjoy the right to select and organize the materials of the work. Compound works shall be protected irrespective of copyright for every works of the compound work.

Derivative works (translations, adaptations, musical arrangements and other remaking of works of science, literature, and art) shall be equally protected as copyright works without prejudice to the rights of author of the original work. Author of derivative work shall enjoy copyright for translation and other adaptation of the work.

5. Member States shall grant right holders of copyright in cinematographic works the right to permit or prohibit public commercial distribution of originals or copies of their copyrighted works at the territory of other member States.

6. Property and personal non-property rights to the results of performing activity (performances), phonograms and other rights established under the legislation of the member States shall be rights related to copyright (related rights).

Performer shall be a natural person whose creative work resulted in creation of a performance, - a performing artist (actor, singer, musician, dancer or another person who acts, delivers, recites, sings, plays a musical instrument or otherwise participates in performing a work of literature, art, or folk art including variety, circus, or puppet show acts), a stage producer of a show (a person staging a theater, circus, puppet, variety or another theatrical production), and a conductor.

Member States shall grant the following rights to performers of the member States on a mutual basis:

exclusive right to performance;

right to a name – right to indicate the name or pseudonym on copies of the phonogram and in other cases of use of the performance; right to indicate the name of a group of performers except for cases when the nature of work does not allow indication of the name of a performer or a group;

other rights under the legislation of the member States.

7. Performers shall exercise their rights observing rights of the authors. Rights of a performer shall be recognized and valid independently of the existence and validity of copyright to the performance.

8. Producer of a phonogram shall be a person having taken the initiative and responsibility for the first recording of sounds of a performance, or other sounds, or representation of such sounds. Unless proved otherwise, a person whose name is indicated in a usual manner on a copy of phonogram and (or) its container shall be recognized as the producer of a phonogram.

Member States shall grant the following rights to the producers of phonograms:

1) exclusive right to a phonogram;

2) other rights established under the legislation of the member States.

9. Member States shall provide that term of protection for the rights of producers of phonograms shall be no less than those provided by the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization and the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations (the 1961 Rome Convention). Legislation of the member States may provide for longer terms of protection for the indicated rights.

10. Collective management organization shall be organization acting within the powers granted to it by authors, performers, producers of phonograms, and other owners of copyright and related rights unless otherwise is provided under the legislation of the Member –states and powers granted to it by other collective management organizations in order to ensure payment of royalties to authors and other owners of copyright.

Relations occurring in connection with activity of collective management organizations shall be regulated by the international treaty concluded within the EAEU.

### III. Trademarks and service marks.

11. Trademark or service mark (hereinafter, the trademark) shall be a sign protected by national legislation and international agreements of the member States used to distinguish goods and (or) services of particular participants of the civil turnover from goods and (or) services of other participants.

Words, images, three-dimensional and other signs or their combinations may be registered as trademarks. Trademark may be registered in any color or their combination.

12. Right holder of a trademark shall have an exclusive right to use a trademark in accordance with the legislation of member State, dispose this exclusive right and prohibit use of a trademark by other persons.

13. Initial term of trademark registration shall be 10 years. This term may be renewed unlimitedly at the request of the trademark owner filed within the last year of the registration validity, each time for a period not exceeding 10 years.

### IV. Trademarks of the Eurasian Economic Union and Service Marks of the Eurasian Economic Union

14. Member States shall register trademarks of the Eurasian Economic Union and service marks of the Eurasian Economic Union (hereafter – trademark of the EAEU).

Trademark of the EAEU shall be registered only if it has a graphical representation.

Right holder of a trademark of the EAEU shall have an exclusive right to use a trademark of the EAEU according to the legislation of member States, dispose this exclusive right and prohibit other persons to use a trademark of the EAEU or similar designations.

15. Relations occurring in connection with registration, legal protection and use of trademark of the EAEU at the territories of member States shall be regulated by international treaty concluded within the EAEU.

#### V. Exhaustion of trademark and trademark of the EAEU

16. Member States shall apply the exhaustion principle of trademark, trademark of the EAEU according to which use of a trademark, trademark of the EAEU in relation to goods that have been lawfully introduced into the civil turnover on the territory of any of the member States directly by the trademark owner and (or) owner of the trademark of the EAEU or by other persons with his/her consent shall not constitute a violation of the exclusive right to such trademark, trademark of the EAEU.

#### V. Geographical Indications

17. Geographical indication shall be understood as indication, which identify a good as originating in the territory of a member State, region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

18. Geographical indication shall be protected at the territory of a member State if such protection is provided under legislation or international treaties of that member State.

#### VI. Appellation of Origin of Goods

19. Appellation of origin of goods shall mean a denomination that constitutes or contains contemporary or historical, official or unofficial, full or abbreviated name of a country, urban or rural settlement, locality or other geographic object, as well as a sign which is a derivative of such appellation, which became known through its use in relation to the goods, the special characteristics of which are exclusively or mainly determined by the natural conditions and (or) human factors of the geographical object concerned.



Indicated provisions shall apply to a sign which allows to identify a good as originating on the territory of a particular geographical object, and although it does not contain the name of the object, which became known as a result of using this sign in respect of the goods, the special characteristics of which meet the requirements provided in the paragraph above.

20. Designation, although representing or containing the name of a geographical object, which became a commonplace name of a certain kind of good without association with the place of its manufacture shall not be recognized as appellation of origin of goods.

Protection provided for appellation of origin of goods may be challenged and acknowledged as void in accordance with provisions of legislation of member States.

21. In respect of appellation of origin of goods, member States shall provide the legal means for interested parties to prevent:

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;

(b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention for the Protection of Industrial Property of 20 March 1883 .

#### VIII. Appellation of Origin of Goods of the Eurasian Economic Union

22. Member States shall register appellation of origin of goods of the Eurasian Economic Union (hereafter - appellation of origin of goods of the EAEU). Appellation of origin of goods of the EAEU shall be protected simultaneously at the territory of all Member States.

23. Relations occurring in connection with registration, legal protection and use of appellation of origin of goods of the EAEU at the territories of member States shall be regulated by international treaty concluded within the EAEU.

## IX. Patent Rights

24. The right to invention, utility model, and industrial design shall be protected according to the legislation of the member States and shall be certified by a patent confirming the priority, authorship, and exclusive right of a patent holder to such invention, utility model, or industrial design.

25. The author of an invention, utility model, or industrial design shall exercise the following rights:

- 1) exclusive right to invention, utility model, and industrial design;
- 2) right of authorship.

26. In particular cases provided by legislation of the member States, the author of an invention, utility model, or industrial design shall exercise also other rights including the right to obtain a patent, the right to remuneration for use of service invention, utility model, or industrial design.

27. The term of the exceptional right to an invention, utility model, or industrial design shall extend for:

- at least 20 years for inventions;
- at least 5 years for utility models;
- at least 5 years for industrial designs.

28. A patent for an invention, utility model, or industrial design shall grant the patent holder an exclusive right to use the invention, utility model, or industrial design by any method complying with the law of the member States and prohibit their use by other persons.

29. Member States shall have the right to provide for limitations of rights granted by the patent on condition that such exceptions are without any prejudice to common use of inventions, utility models, or industrial designs or legal interests of patent holder with account of legal interests of third parties.

## IX. Selection achievements

30. Protection of selection achievements shall be established in accordance with legislation of member States.

31. Author of selection achievements shall have the following rights:

- 1) exclusive right for selection achievement;
- 2) right of authorship.

32. In cases provided by legislation of member States, author of selective achievement shall have also other rights, including the right to receive a patent, right to the name of selective achievement, right for remuneration for use of service selective achievement.

33. Term of exclusive right for selective achievement shall be no less than 25 years.

#### X. Topologies of Integrated Circuits

34. Topology of integrated circuits shall mean special-geometrical positioning of integrated circuit elements fixed on material object and connections between them.

35. Rights on topologies of integrated circuits shall be protected in accordance with legislation of member States.

36. Author of topology of integrated circuits shall have the following rights:

- 1) exclusive right on topology of integrated circuits;
- 2) right of authorship.

37. In cases provided by legislation of member States, author of topology of integrated circuits shall have also other rights, including the right for remuneration for use of service topology of integrated circuits.

38. Term of exclusive right for topology of integrated circuits shall be 10 years.

#### XI. Trade Secrets (know-how)

39. Trade secret (know-how) shall be understood as data of any character (industrial, technical, economic, organizational, etc.), including results of intellectual activity in scientific-research sphere, as well as data on methods of professional activity

that have valid or potential commercial value because it is secret for third persons, have no free access on legal grounds and possess the regime of commercial secret introduced by the holder of such data.

40. Legal protection of trade secrets (know-how) shall be provided according to the legislation of member States.

## XII. Enforcement of Intellectual property Rights

41. Coordination of activity of member States on enforcement of intellectual property rights within the EAEU shall be in accordance with international treaty concluded within the EAEU.

ANNEX 27  
to the Treaty on the  
Eurasian Economic Union

Protocol on Industrial Cooperation

1. The terms which are used in this Protocol shall mean the following:

«priority economic activities» – activities determined by the all member States as a priorities for the implementation of main directions of industrial cooperation;

«industrial cooperation» – sustainable mutually beneficial cooperation of member States' business entities in the field of industry;

«industrial policy within the framework of the EAEU» – member States activity on the main directions of industrial cooperation, which is carried out by member States both independently and with the consultative assistance and coordination of the Commission;

«industry» – complex of economic activities in the sphere of mining and manufacturing industry, except food processing in accordance with national classification of economic activities. Other economic activities shall be regulated by the relevant sections of the Treaty on Eurasian Economic Union;

«industrial cluster» – group of interrelated industrial and linked with them organizations which are mutually enlarge each other and therefore strengthening their competitive preferences;

«technological platform» – object of innovative infrastructure, which allows to provide effective communication and creation of perspective commercial technologies, high technological, innovative and competitive production on the basis of participation of all interested parties (business, science, government, social organizations).

2. Authorities of the Commission within the consultative assistance and coordination of member States' activities by the main directions of industrial cooperation within the framework of the EAEU shall be consist in:

1) assistance in:

information exchange, carrying out consultations, establishment of joint forum for discussions of issues which are related to development of main directions of industrial cooperation, as well as perspective directions of innovative activity;

making proposals on deepening of member States cooperation in the implementation of industrial policy within the framework of the EAEU;

exchange experience on issues, which are related to carrying out of reforms and structural transformation in industry, promotion of innovative activity, industry development;

development and implementation of joint projects and programs;

development of programs on experience exchange for industrial complexes of member States;

involvement in industrial cooperation of member States' small and medium business;

informative cooperation;

development and implementation of joint measures by the member States against global economic crisis in the industry;

development of recommendations on establishment of eurasian technological platforms.

2) carrying out :

presentation of recommendations on further industrial cooperation for for consideration of member States based on interests of each member;

monitoring and analysis of implementation of Main directions of industrial cooperation within the framework of the EAEU;

examination of international experience in the field industry development to identify important for member States methods of industry development;

3) following the decision of the Intergovernmental Council:

preparation of draft provisions on development, financing and implementation of joint programs and projects;

identification of administrative and other barriers on the way of industrial cooperation within the framework of the EAEU and make proposals on their elimination;

making proposals on formulating cooperative linkwork of joint production;

monitoring the market of industrial production within the framework of the EAEU, as export markets of the third countries;

analysis of industrial development of member States;

development jointly with member States of other (additional) documents, such as recommendations, procedures, and mechanisms for implementation of industrial policy within the framework of the EAEU by the main directions of industrial cooperation, as well as framework agreements on cooperation.

Abovementioned list of functions shall be not exhausted and could be enlarged in accordance with the decision of the Intergovernmental Council.

ANNEX 28  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L  
on Common Rules for Granting Industrial Subsidies

I. General Provisions

1. This Protocol is developed in accordance with Article 93 of the Treaty on Eurasian Economic Union (hereinafter – Treaty) and establish common rules which regulate granting of subsidies in relation to industrial products, including in rendering and receiving services, which are directly connected with production, sale (including storage, export from the territory of member State and transportation) and (or) consumption of industrial products.

2. The terms, used in this Protocol, shall mean the following:

«administrative territorial entities» – constituent entities of the Russian Federation (including local governments) and regions of the Republic of Belarus and the Republic of Kazakhstan (including the cities of Minsk, Astana and Almaty);

like product» - product, fully identical to a product, which is manufactured, exported from the territory of member State or transported with the use of specific subsidy, or in the absence of such a product - another product which has characteristics close to characteristic of goods, which is manufactured, exported from the territory of member State or transported with the use of a specific subsidy;

«countervailing measure» – measure to neutralize negative effect of specific subsidy of subsidizing member State on the sector of economy of member State, which had submitted the statement on application of such measure;

«competent authority» - government authority of member State which is responsible for investigations;



«material injury to the sector of the national economy» — deterioration of any sector of the national economy, as substantiated by evidence, that occurred as a result of the import of products from the territory of a member State which granted a subsidy during the production, transportation or storage of such products, and expressed in the reduction of production and sales volume of like products in the territory of the Party, decrease of profitability of production of such products, and negative effect on the commodity stock, employment, salary and investment level in this sector;

«domestic product manufacturers» - manufacturers of the like product in member State conducting the investigation;

«sector of the national economy» – all manufacturers of like products in the member State or those whose share in the total production of like products in the member State is not less than 25 percent;

«recipient of the subsidy» - the commodity manufacturer whose is a subsidy beneficiary;

«manufacturer of subsidizing product» – manufacturer of subsidizing products in the member State which has granted a specific subsidy;

«industrial products » – commodities classified in groups of 25 - 97 of the EAEU Foreign Trade Commodity Nomenclature (hereinafter referred to as TN VED), as well as fish and fish products, except for commodities classified under the TN VED subheadings 2905 43 000 0 and 2905 44, headings 3301, 3501 - 3505, subheadings 3809 10 and 3824 60, headings 4101 - 4103, 4301, 5001 00 000 0- 5003 00 000 0, 5101 - 5103, 5201 00 – 5203 00 000 0, 5301, and 5302 (subheading 2905 43 000 0– mannitol; subheading 2905 44 – sorbitol; heading 3301 – essential oils; heading 3501-3505 – albuminoids, modified starches, glues; subheading 3809 10 – finishing agents; subheading 3824 00 – sorbitol, other products; headings 4101 - 4103 – raw hides and skins; heading 4301 – raw fur skins; headings 5001 00 000 0 - 5003 00 000 0 - raw silk and silk waste, headings 5101 - 5103 wool and animal hair; headings 5201 00 – 5203 00 000 0 – raw cotton, cotton waste, cotton, carded or combed; heading 5301 - flax, raw, heading 5302 – hemp, raw.

The above description of the products shall not be exhaustive.

Changes in the list of TN VED EAEU shall be made by the Council of the Commission;

«subsidized products» – industrial products, during the production, transportation, storage or export from the territory of the granting member States of which specific subsidy was used;

«subsidizing member State» – a member State whose subsidizing body grants an industrial subsidy;

«subsidizing body» – one or more government or local government authorities of the member State that make decisions on granting subsidies;

«subsidy»:

a) financial contribution by a subsidizing body of member State (or a body authorized by the member State) as a result of which benefits are created (provided) and which is carried out by:

direct transfer of funds (e.g, in the form of irrevocable loans, loans) or acquisition of shares in the charter capital, or its increase, or an obligation to transfer such funds (e.g. loan guarantees);

full or partial waiver of the collection of payments that would have to flow to the revenue of the member State (for example, tax exemptions, debt relief). In this case the exemption of exported industrial goods from duties and taxes borne by the like product when destined for domestic consumption or reduction of duties and taxes or refund of such duties or taxes in amounts not exceeding those which have been accrued, is not regarded as a subsidy;

provision of industrial goods or services (except industrial goods or services for the maintenance and development of common infrastructure );

purchase of industrial goods;

b) any other form of income or price support which operates (directly or indirectly) to reduce import of industrial goods from territory of any member State or to increase the export of industrial goods to the territory of any member State in the result of which advantage is provided.

«threat of material injury to the sector of the national economy» – inevitable material injury to the sector of the national economy, as substantiated by evidence;

«injury to the sector of the national economy» – material injury to any sector of the national economy, the threat of material injury to any sector of the national economy, or a significant slowdown in the building up of the sector of the national economy.

## II. Specific subsidies

3. In order to determine whether a subsidy is specific to an industrial enterprise or industry or group of industrial enterprises or industries (hereinafter - certain enterprises) within the jurisdiction of the subsidizing body, the following principles shall apply:

1) Where the subsidizing body, or a legislative act pursuant to which the subsidizing body operates, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be deemed specific provided that not all industrial enterprises or industries in the territory of the subsidizing body's country are included in the group of industrial enterprises or industries;

2) Where the subsidizing body, or a legislative act pursuant to which the subsidizing body operates, establishes objective criteria or conditions governing the eligibility for and the amount of subsidies, specificity shall not exist, provided that the eligibility for subsidies is automatic and that such criteria and conditions are strictly adhered to. The criteria and conditions must be clearly spelled out in law, instruction, legislative act or other official documents, so as to be capable of verification;

3) If, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in subparagraphs (1) and (2), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered (account shall be taken of the extent of diversification of economic activities within the jurisdiction of the subsidizing body, as well as of the length of time during which the subsidy program has been in operation). Such factors are:

use of a subsidy by a limited number of certain enterprises,  
predominant use of a subsidy by certain enterprises,

the granting of disproportionately large subsidy amounts of subsidy to certain enterprises,

and the manner in which discretion has been exercised by the subsidizing body in the decision to grant a subsidy (in this regard, in particular, information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall be considered) .

4. A subsidy which is limited to certain enterprises, located within a designated geographical region within the jurisdiction of the subsidizing body shall be specific. It is implied that the setting or change of generally applicable by government authority of member State at all levels tax rates shall not be deemed to be a specific subsidy.

5. Any subsidy falling under the provisions of Section III of this Protocol shall be deemed to be specific.

Any determination of specificity pursuant to this Article shall be clearly substantiated on the basis of positive evidence.

6. Member States has a right to request the Commission for approval of their specific subsidies.

Member States shall not apply countervailing measured against subsidies, which are granted for the term, conditions and size, approved by the Commission.

Member States shall send to the Commission legal acts, which provide the granting of specific subsidies in a manner of mandatory informing in term, established by international agreement within the framework of the EAEU under the provisions of paragraph 7 of this Protocol.

If one member State has the reasons to imply that the granting of specific subsidy by the other member State could cause injury to the sector of economy, such member State can initiate the investigation conducted by the Commission.

If as a result of investigation the injure for the sector of economy has been proved, the Commission shall make a decision that the member State, which has granted such a specific subsidy, must eliminate all conditions that cause the injury, if member States involved in the dispute has not agreed otherwise during the term, established by international agreement within the EAEU, provided by paragraph 7 of this Protocol.

The Commission shall establish reasonable period of time to enforce such a decision.

If member State does not execute the decision, other member States has a right to turn to the Court of the EAEU.

Provisions of this paragraph shall be applied based on transitional provisions under paragraph 1 of Article 105 of this Treaty.

7. Member States shall develop the following by an international agreement within the EAEU:

procedure on voluntary approval by the Commission of specific subsidies and making relevant decisions by the Commission;

procedure for Commission's investigation (including on facts of violation of the conditions, procedure on granting and using specific subsidies, established by this Protocol)

criteria, on the basis of which the Commission shall make a decision on admissibility and inadmissibility of specific subsidies (including based on development of existing and new cooperative relations between member States);

procedure and conditions on requesting information on granted subsidies by the Commission.

Effective date of this international agreement is provided in paragraph 1 of Article 105 of this Treaty.

8. In case a member State, for the purposes of granting a specific subsidy, establishes a requirement to fulfill technological operations with respect to a beneficiary (manufacturer) for production of a certain product, then conduct of such operations in other member States shall be deemed to fulfill such requirement in accordance with a procedure, approved by the Supreme Council.

## II. Prohibited subsidies

9. The following subsidies shall be prohibited:

export subsidies - subsidies contingent, whether solely or as one of several other conditions, upon export performance from the territory of member State granting the subsidy to the territory of any other member State;

replacement subsidies - subsidies contingent, whether solely or as one of several other conditions, upon the use of industrial products which is originated from the territory of member State granting the subsidy.

The contingency means, among other, the presence of facts indicating that the granting of subsidy, without having made legally contingent upon exportation of industrial product from the territory of the subsidizing member State or use of industrial products originating from the territory such member State, is related to the actual or anticipated exportation or export earnings (earning upon exportation), or to the requirements to use industrial products originating from the territory of the subsidizing member State.

The mere fact that a subsidy is granted to enterprises which export shall not for that alone be considered to be export subsidy for the industry.

10. Where a specific subsidy results in injury to any sector of the national economy of any member State such subsidy shall be deemed to be a prohibited subsidy. Injury to the sector of the national economy must be proved under the provisions of Section V of this Protocol.

11. Member States shall not maintain or introduce measures, which are applied pursuant to a regulatory legal act or a legal act of the subsidizing body, which must be observed in order to obtain specific subsidies and:

1) which contain requirements on:

Procurement or use of industrial products by business entities originating from the territory of a member State introducing the measure, or from any local source designated by the subsidizing authority of the member State (whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production);

Limitation of procurements and use of industrial products imported from the territory of any member State by the business entity in an amount related to the volume or value of

local industrial products that the business entity exports from the territory of the member State introducing the measure;

2) or which restrict:

the import by a business entity of industrial products from the territory of any member State which are used in its local production or related to this production (including depending on the volume or value of products originating from the territory of a member State introducing the measure and being exported by the business entity to the territory of any member States);

the import by a business entity of industrial products from the territory of any member State which are used in its local production or related to this production by restricting the access of the business entity to currency of any member State in an amount of currency revenue of business entity;

the export of industrial products from the territory of any member State by a business entity or sale of industrial products by any member State (whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of the economic entity's local production..

12. Specific subsidies which may cause serious prejudice to the interests of any member State shall be prohibited. Serious prejudice to the interests of the member State occurs when the granting of specific subsidy results in:

1) displacement of like product from the market of the granting member State or impeding the growth of imports of the like product, which originates from the territory of any member State, to the market of the granting member State;

2) displacement of like product from the market of the third member State or impeding growth in exports of a like product originating from the territory of any member State to the territory of the third member State;

3) significant price undercutting by a product which is manufactured, exported from the territory of the granting member State or transported under a specific subsidy with reference to the price for a like product, which originates from the territory of the other member State, in the same market of any member State, or a considerable price restraint, fall in prices or lost sales in the same market.

13. Serious prejudice to the interests under the paragraph 12 of this Protocol shall be determined pursuant to the provisions of this Section, and shall be proved pursuant to Section V of this Protocol.

14. On the territories of member States the measures, specified in paragraph 11 of this Protocol, shall not be provided, as well as prohibited subsidies, including following (export of products shall mean export of products from the territory of subsidizing member State on the territory of other member State):

1) Programs exempting exporters from mandatory sales to member State of part of foreign currency proceeds or permitting the use of multiple exchange rates through partial national currency depreciation, therefore exporters may benefit from exchange rate difference;

2) Internal transport and freight charges on export shipments provided or imposed by governments on terms more favorable than those for domestic shipments;

3) The provision of goods and services for use in the production of exported commodities, on terms and conditions more favorable than for use in the manufacture of like products to be sold in the domestic market;

4) full or partial exemption from, deferral or reduction of taxes or any other charges paid or payable by economic entities, as related to the export performance or use of products originating from the territory of a member State that grants above benefits. In this case, deferral shall not necessarily imply a prohibited subsidy if a penalty payable for tax evasion is levied. Zero rate of VAT on exporting products shall not mean a prohibited subsidy;

5) The allowance of special deductions, which are related to export performance and reduce the tax base for products in excess of those levied in respect of like products to be sold in the domestic market;

6) The exemption, reduction, deferral of taxes or special deductions applied to calculate the tax base for products and services, which are used in the manufacture of export products, over and above those granted in respect to products and services used in the manufacture of like products to be sold in the domestic market;



7) Collection of customs duties on raw materials used in the manufacture of export products, but at a lower rate than for the same raw materials used in the manufacture of like products for domestic consumption, or refund or rebate of customs duties on raw materials used in the manufacture of export products, in excess of those for the same raw materials used in the manufacture of similar products to be sold in the domestic market;

8) The reduction or refund of import charges levied on imported raw materials that are used in the manufacture of products, if the products manufactured are required to contain domestic raw materials, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;

9) Charging premiums insufficient to cover long-term operating expenses or losses due to export credit guarantee or insurance programs, guarantee or insurance programs against increases in the cost of exports or foreign exchange risks;

10) Granting export credits at rates lower than those which recipients of such credits would actually have to pay for the comparable credit so employed (the same maturity period and denomination in the same currency, etc.) in the market conditions or the payment of all or part of the costs incurred by exporters or financial institutions in obtaining credits. Export credit practices complying with the interest rate provisions of the Arrangement on Officially Supported Export Credits, developed by OECD member countries, shall not be considered as a subsidy;

11) Reduced tariff rates for electricity or energy sources supplied to enterprises, provided that such subsidies are clearly tied with export performance or the use of domestic products instead of imported ones.

15. Commission, based on this Protocol, shall not approve prohibited subsidies as admissible subsidies.

Provisions of this paragraph shall be applied based on transitional provisions under the paragraph 1 of Article 105 of this Treaty.

16. Whenever one member State has reason to believe that subsidizing body of another member State grants prohibited subsidies and introduces measures, which have to be adhered in order to receive specific subsidies in accordance with this Protocol, the first

member State the concerned member State may request consultations with such other member State to cancel such prohibited subsidies or measures.

17. If no mutually agreed solution has been reached within two months of the request for consultations received through official diplomatic channels to be used for notifying of consultations as referred in paragraph 16 of this Protocol, then the existing disagreements shall be settled pursuant to Article 93 of this Treaty.

If as a result of dispute settlement procedure it is resolved, that one of member States has granted prohibited subsidy, as referred in paragraphs 9 and 12 of this Protocol, and (or) applies measures referred to in paragraph 11 of this Protocol, then the member State shall, immediately and unconditionally, cancel such prohibited subsidies or measures referred to in clause 3 of this Article, whether such prohibited subsidies or measures result in injury to the national economies of the other member States, and introduce a countervailing measure with regard to such prohibited subsidy pursuant to paragraphs 89-94 of this Protocol.

18. Granting bodies of the member State during a specified transition period have the right to grant subsidies by using measures under the Annex of this Protocol.

### III. Permissible subsidies

19. Subsidies other than specific and prohibited in accordance with this Protocol shall be deemed to be permissible subsidies, granting of which do not distort mutual trade between member States.

The member States have the right to grant such subsidies without restrictions, and the provisions of this Protocol concerning the application of countervailing measures, remedies or prohibition on granting subsidies shall not apply to such subsidies.

20. Member States have the right to grant permissible subsidies, provided by this Section, without any approval from the Commission.

Provisions of this paragraph shall be applied based on transitional provisions under the paragraph 1 of Article 105 of this Treaty.

21. Subsidies, provided in Section VII of this Protocol, that are deemed to be specific pursuant to Section II of this Protocol but recognized by the member States as not distorting mutual trade, shall not give grounds for the adoption of countervailing measures pursuant Section VIII of this Protocol.

#### IV. Procedure on conduct of investigation

22. An investigation to analyze the compliance of subsidies granted in the territory of another member State to the provisions of this Protocol, and also to determine an existence of injury to a sector of the national economy caused by imports of subsidized product from the territory of the member State, which has granted a specific subsidy, or displacement of like product from the market of subsidized member State, shall be conducted by the competent authority upon the written application submitted in accordance with this Protocol by national producers of the like product, registered in the territory of the member State, or on the initiative of the competent authority (hereinafter – application).

23. The application shall be submitted by national producers of like product or by national association of such producers, that comprises producers constituting a sector of the national economy, as well as by representatives of those entities, duly authorized under the national law of the member State, in which an applicant is registered.

24. The application shall contain:

- 1) the applicant's data;
- 2) description of the product (stating the country of origin and its code according to the Foreign Trade Commodity Nomenclature of the EAEU);
- 3) information on the existence, nature and amount of the specific subsidy;
- 4) information on the producers of subsidized products;
- 5) information on national producers of like products;
- 6) information on the evolution of the volume of the subsidized imports to the territory of the member State, to whose competent authority an appropriate application is submitted, for the three calendar years preceding the submission date;

7) information on the evolution of the volume of like products exports exported from the territory of the member State, to whose competent authority an appropriate application is submitted, to the territory of the other member States;

8) evidence that alleged injury to a sector of the national economy is caused through subsidized imports, or displacement of like product from the market of subsidized member State. Evidence of material injury or threatened material injury to the sector of the national economy through subsidized imports or displacement of like product from the market of subsidized member State shall be based on objective factors, being descriptive of the economic climate of the sector of the national economy and expressible in terms of quantity (including the product's production and sales volume, share in the member State's market, production cost and price, data on capacity utilization, labor productivity, profit margins, production and sales profitability, amount of investment in the sector of the national economy);

9) information on the evolution of the volume of imports of the like product (in terms of quantity and value) to the common customs territory of the EAEU, for the three calendar years preceding the application submission date;

10) information on the evolution of the volume of exports of the like product (in terms of quantity and value) from the common customs territory of the EAEU, for the three calendar years preceding the application submission date;

11) analysis of other factors that could have had a bearing on the sector of the national economy within the period under consideration.

25. To ensure comparability, value indices specified in the application shall be denominated in monetary units adopted for international trade statistics purposes and approved by the Commission.

26. The application accompanied by its non-confidential version (if the application contains any confidential information), shall be submitted to the competent authority and subject to registration on the day of its receipt in this authority.

27. The application shall be rejected on following grounds:

the applicant's failure to comply with requirements established in paragraph 23 this Protocol;

failure to attach to the application materials specified in paragraph 24 of this Protocol;

unreliability of materials submitted by the applicant.

The application shall not be rejected on any other grounds.

28. Before making a decision to initiate an investigation, the competent authority shall notify in written form competent authority of the member State in whose territory the specific subsidy in question is granted, about receipt of application.

29. To decide on initiating an investigation, the competent authority shall, within thirty calendar days after the date of registration of the application review the adequacy and accuracy of the evidence and information contained in this application, pursuant to paragraph 24 of this Protocol. The aforementioned period may be extended, where the competent authority may need to request additional information from the applicant, but in all cases such period shall not exceed forty days.

30. The application may be withdrawn by the applicant prior to or during the investigation.

If the application is withdrawn prior to the investigation, such application shall be deemed not to have been submitted.

If the application is withdrawn during the investigation, the investigation shall be either terminated or continued as may be decided by the competent authority.

31. After an application is accepted for consideration and before the decision to initiate the investigation is made, the competent authority shall suggest holding consultations with the competent authority of the member State, which has granted a specific subsidy with the purpose of clarifying the situation as to the existence, size, use of and the consequences of granting a specific subsidy, and arriving at a mutually agreed solution. Such consultations may continue throughout the period of investigation.

32. Holding consultations with the aim of clarifying the situation as to the existence, size, use of and the consequences of granting a specific subsidy shall not prevent the competent authorities from deciding to initiate the investigation and, following the investigation, from preparing a summary of investigation findings, which is to consider compliance of the specific subsidy, granted in the territory of another member State, with

the provisions of this Protocol and (or) injury to a sector of the national economy caused through subsidized imports from the territory of a member State, which has granted the specific subsidy, and from submitting a request for the introduction of countervailing measures to the member State in the territory of which the specific subsidy in question is granted.

33. Within the time limit specified paragraph 29 of this Protocol, the competent body shall decide to initiate or to refuse to carry out an investigation.

If the competent authority decides to refuse to carry out the investigation, it shall, in writing, within ten calendar days after the date of such decision, notify the applicant of the reason for refusal to investigate.

If the competent authority decides to initiate an investigation, it shall notify in writing the competent body of the member State, which has granted the specific subsidy, and other interested persons, known to the former, of the decision. The competent authority shall also ensure, within five business days after the date of the decision to initiate an investigation, publishing a notice of initiation of the investigation. The investigation shall be deemed initiated as of the publication date of the notice of initiation.

34. The competent authority may decide to initiate an investigation, in particular on its own initiative, if it has evidence of violations of this Protocol and (or) evidence of injury to the sector of the national economy through the subsidized imports to the territory of the concerned member State, or shakeout of a like product by a subsidized product from the market of a member State, which has granted a specific subsidy, or a third member State.

If such evidence is not sufficient to carry out an investigation, such an investigation may not be initiated.

35. Once it is decided to initiate an investigation, questionnaires shall be sent by the competent body to known national producers of the like product and producers of the subsidized product subject to investigation to respond thereto for the purpose of the investigation.

For the purpose of this article, a questionnaire shall be deemed received within seven calendar days from the mailing date or date of its delivery directly to a representative of the national producer or the subsidized product producer.

National producers of the like product and producers of the subsidized product subject to investigation, to whom questionnaires have been sent, shall be given thirty calendar days after receipt of such questionnaires to respond to the competent body. The competent body may extend the aforementioned time limit based on a reasoned written request of the national producers of the like product or producers of the subsidized product subject to investigation, but not more than by ten calendar days.

36. To verify the information submitted in the course of the investigation or to obtain any additional investigation-related information, the competent body may carry out investigations in the territory of a member State which has granted a specific subsidy, provided that they have obtained the consent of the respective producer of the subsidized product subject to investigation and notified in good time the representatives of the Government of the member State in question, and unless that member State objects to the investigation in its territory.

To verify the information submitted in the course of the investigation or to obtain any additional investigation-related information, the competent body may send its representatives to the location of national producers of the like product to consult and negotiate with interested parties, get acquainted with sample subsidized products subject to investigation and take other actions necessary to investigate, which are not inconsistent with the existing law of the investigating member State.

37. In the course of the investigation, the competent body may send requests for investigation-related information to the competent bodies of the member State which has granted or is granting a subsidy in question and to interested parties.

38. Interested parties may submit, on or prior to the date specified in the notice of initiation, information (including confidential information) required for the investigation and indicate the source of such information. The competent body shall be entitled to request additional information from interested parties.

39. Evidence and information relevant to the investigation shall be submitted to the competent body in the official language of the investigating member State, and the original documents in a foreign language shall be accompanied by a certified translation.

40. During the investigation, taking into account the need to protect confidential information pursuant this Protocol the competent body shall provide interested parties, at their written request, with opportunities to review the information submitted in writing by any interested member State as evidence relevant to the subject matter of the investigation. The competent body shall provide the participants in the investigation with the opportunity to review other information pertaining to the investigation, that is used by the authority in the investigation, and that is not confidential pursuant to this Protocol.

41. Government (administrative) bodies of the member States that are authorized in customs and government statistics, other government (administrative) bodies of the State Parties and territorial (local) government (administrative) bodies shall assist in carrying out the investigation and, at the competent body's request, provide information required for the investigation, including confidential one.

42. The investigation period shall not exceed six months after the initiation.

The investigation shall be considered complete on the day the competent body, which carried out an investigation, forwards the findings of the investigation to the Government of the relevant member State.

43. Following the investigation, the competent body shall prepare its opinion on compliance of the subsidy granted in the territory of another member State with the provisions of this Protocol.

44. If investigation results ascertained violation of the provisions of this Protocol and (or) injury to the sector of the national economy , then the member State whose competent body has conducted the investigation shall submit to the member State in whose territory a specific subsidy in question is being granted a request for the introduction of countervailing measures.

45. In determination of a sector of the national economy , the territory of a member State whose competent body is carrying out investigation, may be interpreted as divided into two or more competitive markets and national producers within each one of these



markets may be regarded as a separate sector of the national economy, if the producers within such market sell not less than eighty percent of the like product produced thereby and the demand for the like product in this market is not to any substantial degree supplied by national producers of that product located elsewhere in the territory of the investigating member State. In such cases, injury may be found to exist even if a major portion of the sector of the national economy is not injured, provided that there is a concentration of subsidized product sales in one of the competitive markets and provided that the subsidized imports are causing injury to at least eighty percent of national producers of the like product within one of such markets.

46. The amount of a specific subsidy shall be determined based on the benefit conferred on the recipient. When calculating the specific subsidy benefit amount, the competent body shall consider the following:

1) equity participation of the subsidizing body shall not be deemed as conferring a benefit, unless such participation can be regarded as inconsistent with the usual investment practice (including for the risk capital provision) in the territory of the relevant member State;

2) credit provided by a subsidizing body shall not be deemed as granting a specific subsidy, unless there is a difference between the amount that the entity receiving the credit pays on the government credit and the amount that the entity would pay on a comparable commercial credit which the entity could actually obtain in the credit market of the member State. In this case, the benefit shall be the difference between these amounts;

3) credit guarantee by a subsidizing body shall not be deemed as granting a specific subsidy, unless there is a difference between the amount that the entity receiving the guarantee pays on the credit guaranteed by the subsidizing body and the amount that the entity would pay on a comparable commercial credit without the government guarantee. In this case, the benefit shall be the difference between these amounts as adjusted for any difference in commission fees;

4) provision of products or services or purchase of products by a subsidizing body shall not be deemed as granting a specific subsidy, unless products or services are

provided for less than adequate remuneration or purchased for more than adequate remuneration. The remuneration adequacy shall be determined proceeding from current market conditions for the provision or purchase of such products or services in the market of the relevant member State (including price, quality, availability, merchantability, transportation and other sale or purchase conditions).

47. Subsidies shall be calculated per units (tons, cubic meters, pieces, etc.) of a product imported to the member State whose competent body is investigating, or sold in the market of the member State in whose territory a specific subsidy is granted or in the third member State's market.

48. In calculating the subsidy amount, indicators of inflation in the member State concerned shall be taken into account if the inflation rate is so high that it can distort the calculated results.

49. Per-unit subsidy amount shall be determined on the basis of the rate of expenses incurred by a member State that has granted a specific subsidy for that purpose.

50. When calculating the subsidy per product unit, the product value shall be determined as the total value of recipient legal entity's sales for the 12 months period, for which necessary data is available, preceding the period in which the subsidy is granted.

51. When calculating the subsidy amount, any reparation fee or other expenses incurred to obtain the subsidy shall be deducted from the total amount of the subsidy.

52. If the subsidy is granted other than with regard to a certain quantity of produced, exported or transported products, the subsidy per product unit shall be determined as the total subsidy amount divided by production, sales or export volume of such a product for the period in which the subsidy is granted, with due account, where necessary, for the share of subsidized imports in the total production, sale or export volume.

53. If the subsidy is granted in connection with the development or acquisition of fixed assets, then the subsidy amount shall be calculated by distributing the subsidy over an average depreciation period of these fixed assets in the reviewed economic sector of the member State which has granted a specific subsidy. Subsidy per unit calculation shall also include subsidies granted for the acquisition of fixed assets before the period covered by the investigation, and the amortization period of which has not yet expired..

54. Where the subsidy amount is to be calculated for different subsidy amounts granted for the same product at different times or for different purposes, weighted average subsidy rates shall be applied taking into account its production, sales and export volume of the product.

55. If the subsidy is granted in the form of tax benefits, the product value shall be determined as the total value of sales of that product over the most recent 12 months in which tax benefits were applied.

56. Subsidies given within the calendar year by different granting authorities and (or) under different programs shall be aggregated.

57. The fact of displacing a like product from the market of the granting member State or a third member State or the fact of impeding growth in exports of the like product to the territory of the granting member State or impeding growth in exports of the like product to the territory of a third member State shall be ascertained, if it is proved that there has been an adverse effect on the market share of the like product in the granting member State or a third member State relative to the subsidized product. This fact shall be ascertained for a period sufficient to prove clear trends in the market development of the product concerned which, under normal circumstances, shall be at least one year.

58. An adverse effect on the market share in the granting member State or a third member State shall include any of the following situations:

- 1) the subsidized product market share increases;
- 2) the subsidized product market share remains constant under circumstances in which it would have declined in the absence of the specific subsidy;
- 3) the subsidized product market share declines, but at a lower rate than in the absence of the specific subsidy.

59. Price undercutting, shall be ascertained through a comparison of prices of the subsidized product in the relevant market with prices of a product whose production, transportation or exit to the territory of any of the member States was not supported by a specific subsidy. The comparison shall be made at the same trade level and at comparable time periods. Any other factors affecting price comparability shall be taken into account. If

the above direct comparison is not possible, the existence of price undercutting may be determined based on average export prices.

60. In the event that two Parties are in dispute, pursuant to Article 93 of this Treaty, with regard to serious prejudice to the interests, as determined pursuant to paragraphs 12, 57-59, 61 and 62 of this Protocol is alleged to have arisen in the market of a third member State, such member State shall provide Parties in dispute with available statistical information relating to the subject matter of the dispute, as to the changes in such member State's market shares of products originating from the territory of the other Parties in dispute, and statistical information on prices of the products involved. In this case, such a member State shall have the right not to conduct a special market and prices analysis and not to provide information that it considers to constitute commercial or state secret.

61. Serious prejudice to the interests cannot be ascertained where any of the following circumstances exist during the relevant period:

1) prohibition or restriction on exports of the product from the territory of the member State that seeks to ascertain serious prejudice or on imports from the territory of the member State that seeks to ascertain serious prejudice into a third member State market;

2) decision made by an authorized body of the member State importing a like product and operating a monopoly of trade or state trading in that product to refocus, for non-commercial reasons, its imports from the member State that seeks to ascertain serious prejudice on another country;

3) natural disasters, strikes, transport disruptions or other force majeure events having serious adverse effects on production, quality, quantity or prices of products intended for export from the affected member State;

4) arrangements limiting exports from the member State that seeks to ascertain serious prejudice;

5) voluntary decrease in the product availability for export from the member State seeking to ascertain serious prejudice (including, inter alia, a situation where economic entities of the affected member State have autonomously refocused the like product exports on new markets);

6) failure to comply with standards and (or) other administrative requirements in the member State importing the product.

62. In the absence of circumstances referred to in paragraph 61 of this Protocol, the existence of serious prejudice should be ascertained on the basis of the information submitted to, or obtained independently by the Court of the EAEU.

63. Injury to a sector of the national economy caused by subsidized imports shall be determined based on examination of the volume of the subsidized imports and the impact of such imports on prices of the like product in the market of a member State whose competent body is conducting the investigation and on the national producers of the like product.

64. Regarding the subsidized imports volume, the competent body shall determine whether there has been an increase in subsidized imports (either in absolute terms or relative to production or consumption of the like product in the member State whose competent body is conducting the investigation).

65. When assessing the impact of subsidized imports on prices of the like product in the market of the investigating member State, the competent body shall ascertain:

1) whether the subsidized imports prices were lower than the like products prices in the market of the investigating member State;

2) whether the effect of subsidized imports was that of depressing prices of the like products in the market of the investigating member State;

3) whether the effect of subsidized imports was that of preventing growth of the like product prices in the market of the investigating member State, which otherwise would have occurred.

66. The analysis of the effect of the subsidized imports on the sector of the national industry shall consist in the assessment of all relevant economic factors having a bearing on the state of that sector, including:

1) actual or potential reduction in output, sales and market share of the like product in the investigating member State, profits, labor productivity, and return on investment or on capacity utilization;

2) factors affecting the like product prices in the investigating member State's market;

3) actual and potential negative effects on cash flows, like product stock, employment level, wages, output growth rates, and possibility to raise investments.

67. The effect of the subsidized imports on the sector of the national economy shall be assessed in relation to the production of the like product in the investigating member State, if available data permit to single out that production on the basis of such criteria as the production process, sales by producers and profit. If it is not possible to single out that production, then the subsidized import effects shall be assessed regarding the narrowest group or range of products which include the like product, and for which the required information is available.

68. Determining injury to the sector of the national economy caused by the subsidized imports shall be based on the analysis of all relevant evidence and information available to the competent body. The competent body shall consider, inter alia, such factors as the dynamics and effects of the like product imports into the common customs territory of the EAEU, and imports from other member State. In this case, no one or several factors of those set during the assessment of the subsidized imports volume and the effects of such imports on the sector of the national economy can be deemed critical for the purposes of estimating injury to the sector of the national economy caused by the subsidized imports. Besides the subsidized imports, the competent body shall also analyze any other known factors which in the same time period are injuring the sector of the national economy, and the injuries caused by those other factors are not to be attributed to the subsidized imports.

69. In determining the existence of threatened material injury to the sector of the national economy caused by the subsidized imports, the competent body shall consider all available factors, inter alia such as:

1) nature and amount of the subsidy or subsidies and their likely trade effects;

2) rate of growth of subsidized imports being indicative of the real possibility of further increase;

3) subsidized product producers having sufficient capacity in the member State that has granted the subsidy or an imminent increase therein, which is indicative of the real possibility of further increased subsidized exports;

4) price level for subsidized products, if such prices would likely depress or suppress market prices of the like product in the investigating member State, and increase demand for further subsidized imports; and

5) producer's stocks of the subsidized product.

70. In this case, no one or several factors of those set out in paragraph 69 of this Protocol can be deemed critical for the purposes of determining threatened material injury to the sector of the national economy caused by the subsidized imports.

71. The existing threatened material injury to the sector of the national economy shall be determined where the competent body, in the course of the investigation on having analyzed the factors referred in paragraph 69, arrived at a conclusion that further subsidized exports are imminent and that, unless a countervailing measure is taken, material injury would occur.

72. Parties interested in the investigation may include:

1) a national producer of the like product or an association, the majority of members of which are national producers of the like product;

2) a producer of the subsidized product subject to investigation or an association of producers of the subsidized product subject to investigation, the majority of members of which are producers of such product;

3) a member State and (or) the authorized body of the member State, which has granted the subsidy;

4) public associations of consumers if the product concerned is to be primarily consumed by individuals;

5) consumers of the subsidized product subject to investigation, if they use this product in the production process, and associations thereof.

73. In the course of the investigation, interested persons provided in paragraph 72 of this Protocol shall act on their own behalf or through their representatives, which under the law of the investigating member State, shall be duly authorized.

If in the course of the investigation an interested member State acts through its authorized representative, the competent body shall communicate to the interested member State all the information about the subject matter of the investigation only through such a representative.

74. The information submitted to the competent authority by the interested member State shall be deemed confidential, if such a member State presents reasons proving that the disclosure of such information would provide a competitive advantage to any third member State or would entail adverse effects on a person furnishing such information, or on a person from whom the information was acquired by the furnishing person. Confidential information shall not be disclosed without the permission of the furnishing interested member State, unless otherwise stipulated by the law of the member States. The competent body may require that interested parties providing confidential information furnish a non-confidential summary. This summary shall contain data sufficient for understanding the essence of the submitted confidential information. Where in response to the competent body's request for furnishing a non-confidential summary an interested member State indicates that such confidential information cannot be so summarized, such an interested member State shall state the reasons why a summary cannot be provided.

If the competent body finds that the reasons presented by the interested member State are not sufficient to consider the furnished information as confidential, or if the interested member State, that failed to submit a non-confidential summary of the confidential information, fails to state the reasons why the confidential information cannot be so summarized, or provides information other than the reasons for the non-summarizing, then the competent body may disregard such information.

75. The competent body shall be held liable for the disclosure of confidential information as provided for by the law of the investigating member State.

## V. General exceptions

76. Nothing contained in this Protocol shall be interpreted as:



1) a requirement for any member State to submit any information the disclosure of which it considers to be contrary to its essential security interests; or

2) a barrier for any member State to take actions which it considered to be necessary to protect its essential security interests:

with regard to fissionable materials or the materials from which they are produced;

with regard to the development, production and trade arms, ammunition and implements of war, and other products and materials which are carried out directly or indirectly for the purpose of supplying a military force;

if they are taken in wartime or other emergency circumstances in international relation;

3) a barrier for any Party to take any action as a part of its commitments under the United Nations Charter for the maintenance of international peace in all of the world and international security..

77. Nothing in this Protocol shall be construed to prevent the member States from using specific subsidies that distort trade, if such subsidies are introduced in exceptional circumstances and if their introduction is driven by the need to protect:

1) public morals, public order and safety;

2) human, animal or plant life or health;

3) national treasures of artistic, historic or archaeological value;

4) intellectual property rights;

5) exhaustible natural resources if such measures are made effective concurrently with restrictions on domestic production or consumption

## VII . Non-Actionable Specific Subsidies

78. Granting of the following specific subsidy shall not be ground to apply countervailing measures: support of research activities carried out by firms as well as higher educational institutions and research organizations under contracts with firms, provided that such support covers no more than 75% of industrial research costs or 50% of precompetitive development activity, and this subsidy shall cover the following costs:

- 1) staff costs (researchers, technicians and other supporting staff employed solely in research activities);
- 2) costs of instruments, equipment, lands and buildings used solely and permanently (except when to be disposed of on a commercial basis) for research activities;
- 3) costs of consultancy and equivalent services used solely for research activities (including purchased research, technical knowledge, patents, etc.);
- 4) additional overheads incurred directly as a result of research activities;
- 5) other current costs (e.g. of materials, supplies, etc.) incurred directly as a result of research activities;

79. For the purposes of this Section the term “industrial research” means planned search or critical research aimed at discovery of new knowledge with the hope that such knowledge will be useful in developing new products, processes or services or in bringing about a significant improvement to existing products, processes or services.

The term “precompetitive development activity” means the translation of industrial research results into a plan, drawing or design of new, modified or improved products, processes or services, whether intended for sale or use (including the creation of the first prototype unsuitable for commercial use). It may further include a concept formulation and design of product, process or service alternatives and initial demonstration or pilot projects, provided that the same cannot be adapted or used for industrial application or commercial exploitation. It does not apply to routine or periodic alterations to existing products, production lines, processes, services, and other ordinary operations even though such alterations may lead to improvements.

80. The allowable non-actionable support level as referred in paragraph 78 of this Protocol is not constituting grounds for measures, , shall be determined in relation to the total expenses incurred for a particular project implementation period.

In the case of programs which encompass industrial research and precompetitive development activity, the allowable non-actionable support level shall not be above the simple average of the allowable levels of non-actionable support applicable to the above two categories; the simple average is to be calculated based on all relevant costs provided in paragraph 78 of this Protocol.

81. Provisions of this Protocol shall not applied to fundamental scientific research, which are carried out by higher educational institutions and research organizations independently. Fundamental scientific research shall mean broaden of general scientific and technical knowledge which is not connected with industrial and commercial aims.

82. Assistance to disadvantaged regions in the territory of a member State which is to be provided within a general framework of regional development and, being non-specific (under the provisions of Section II of this Protocol) is to be distributed among appropriate regions, provided that:

1) each disadvantaged region must be a clearly identifiable compact administrative and economic zone;

2) such a region shall be considered as disadvantaged on the basis of neutral and objective criteria , indicating that the region's difficulties arise out of more than temporary circumstances (such criteria must be clearly distinctly formulated in laws, regulations or other official document, so as to be verifiable);

3) the criteria, provided in subparagraph 2 of this paragraph, shall include an economic development measurement based on at least one of the following indicators, which are measured for three-year period (such measurement could be complex):

income per capita or household income per capita, or GDP per capita, which shall not be above 85% of the average figure for the territory concerned;

rate of unemployment, which is to be at least 110% of the average figure for the territory concerned, as measured over a three year period; however, such measurement may be a combined one and may be sensible to other factors;

83. A general framework of regional development means that regional subsidy programs are part of an internally consistent and commonly applicable policy of regional development and that regional development subsidies are not to be granted in geographically isolated locations which have no, or virtually no, influence on the region development.

Neutral and objective criteria means criteria that do not offer benefits to certain regions beyond what is necessary to eliminate or diminish regional disparities within the scope of the regional development policy. In this regard, regional subsidy programs shall

indicate maximum assistance amounts which can be provided under each subsidized project. Such maximum amounts are to be differentiated according to different levels of development of regions being assisted and expressed in terms of investment costs or job creation costs. To the extent of such maximum amounts, the distribution of assistance is to be distributed widely enough to avoid that a subsidy is predominantly used by, or granted in disproportionately large amounts to, certain enterprises as stipulated in Section II of this Protocol.

84. Granting of the following specific subsidy shall not be ground to apply countervailing measures: assistance in adapting existing production facilities (productive capacity, which is in operation 2 years before adopting new environmental requirements) to new environmental requirements imposed by law and (or) regulations which entail tougher constraints and financial burden on firms, provided that the above assistance:

- 1) is a one-time, non-recurring measure; and
- 2) is limited to 20% of the adaptation costs; and
- 3) does not cover the costs of replacing and operating the subsidized equipment, which are to be fully borne by firms; and
- 4) is directly linked to and proportionate to a firm's plan of pollution reduction and does not cover production cost savings which can be yielded; and
- 5) is available to all firms which can switch over to the new equipment and (or) production processes.

### VIII. Introduction and Application of Countervailing Measures

85. The competent body of any member State may carry out an investigation of compliance of subsidies granted in the territories of the other member States with the provisions of this Protocol or investigation concerning the other Parties' applying measures referred to in paragraph 11 of this Protocol, in procedure, established by Section V of this Protocol. The competent body initiating the investigation shall inform the member State of the initiated investigation. The competent bodies of the member State may request the necessary information about the progress of the investigation.

86. If as a result of the investigation the competent body ascertains that the subsidizing body of the other member State grants a specific subsidy, and this specific subsidy causes injury to a sector of the national economy of the member State whose competent body is conducting the investigation, then the competent body may submit to such member State a request for the introduction of countervailing measures. The request for introduction of countervailing measures shall provide evidence of the subsidy being incompatible with the provisions of this Protocol.

87. If as a result of the investigation, conducted under the provisions of paragraph 6 of this Protocol, the Commission confirms the presence of injury to national sector of economy of one of the member States, the competent body of this member State can submit to such member State a request for the introduction of countervailing measures. The request for the introduction of countervailing measures shall provide evidence of the subsidy being incompatible with the subparagraph 3 of paragraph 6 of Article 93.

member States shall not apply countervailing measures against subsidies, approved by the Commission pursuant to paragraph 6. Provisions of this paragraph shall be applied based on transition periods, provided in Paragraph 1 of Article 105 of this Treaty.

88. The request for application of countervailing measures can be granted by the member State that has received the request, voluntarily within the response time period, no more than 2 months or following dispute resolution.

89. The member State, which has received the request for the application of a countervailing measure and recognized the legality either voluntarily or following dispute resolution pursuant to Article 93 of the Treaty, shall introduce the countervailing measure pursuant to the request within 30 calendar days.

90. A countervailing duty, applied in accordance with paragraph 89 of this Protocol, shall be equal to the amount of the subsidy granted plus interest accrued on that amount for the entire period of using the funds (property) as specified in the granted request.

The industrial subsidy amount shall be calculated under this Protocol.

The interest rate shall equal one and a half times the refinance rate as of the date of granting the subsidy, the rate being set by the Central (National) Bank of the member State

whose authority granted the subsidy. The interest rate shall be calculated by applying compound interest with regard to the period from the date of subsidy to the date of execution of the countervailing duty.

Compound interest means accumulating annually on the amount of the interest accrued in the previous year.

91. A countervailing measure shall be deemed to have been executed after the subsidy amount, including the due interest, is collected from the subsidy recipient and paid to the budget of the member State whose authority granted the subsidy.

92. A countervailing measure shall be deemed not to have been executed if it is collected from sources other than those specified in paragraph 91 of this Protocol. the sources for the countervailing duty collection may be changed by mutual agreement between the claimant and respondent member States, solely to prevent the subsidy recipient's from circumventing the countervailing duty.

93. Execution of the countervailing measure shall constitute sufficient grounds for the countervailing measure request to be deemed as complied with. The concerned member State shall comply with the granted request for countervailing measures within one calendar year after the date of granting the request.

94. If the member State fails to comply with countervailing measure request in time, the requesting member State has the right to apply remedies, which are to be approximately commensurate with the countervailing measure.

For the purposes of this Protocol, the remedies shall mean that the member State introducing a remedy temporarily suspends the discharge of its obligations to the member State against which a remedy is introduced, where such obligations arise from the existing economic and trade agreements between the Parties other than those for the oil and gas industries.

Remedies shall be temporarily and applied by member States till that the measure would be eliminated or changed to comply to provisions of Treaty.

## IX. Notifications

95. Member States (competent authorities of member States) no later than December 1 shall notify each other and Commission on all subsidies planned for the next year at the federal/national and regional (municipal)/local levels on annual basis.

member States shall not treat subsidy data as non-public information, except provisions under paragraph 73 of this Protocol.

96. Resources for notification in accordance with paragraph 95 of this Protocol shall be expense sides of draft federal/republic budget and budgets of administrative territorial units.

97. Member States (competent authorities of member States) shall every three months no later than 30<sup>th</sup> of the month following the reported quarter, notify each other and the Commission according to form on the subsidies granted on federal (republic) and regional (local) levels.

Provisions of this paragraph shall be applied based on transition periods, provided in Paragraph 1 of Article 105 of this Treaty.

98. Member States (competent authorities of member States) shall July 1 of the year following the reporting year, notify each other and the Commission authorities of the States Parties shall notify each other on the prescribed form of subsidies granted for the reporting year on annual basis. The notice shall contain enough information to enable the authority of another member State to assess the amount and compliance of the subsidies granted with the provisions of this Protocol.

99. Forms of notifications on subsidies of member States (competent authorities of member States) provided by this Section, and also procedure of filling out them shall be approved by the Commission after consultation member States.

100. The notifications on subsidies shall contain the following information:

1) title of program, brief description or title of subsidy (e.g. “Development of Small Business);

2) period covered by the notification;

3) policy objective and (or) purpose of the subsidy (data on objective of granting subsidy contains in legal acts pursuant to which the subsidy are granted);

4) legislation under which the subsidy is granted (legal acts, under which it is granted, and brief description of this act);

5) form of the subsidy (grant, loan, tax preferences and e.g);

6) to whom (producer, exporter) and how the subsidy is provided (with the assistance of which methods the subsidy has been), as well as mechanism and conditions of granting of subsidies;

7) total amount of the subsidy (annual or total amount - subsidies per unit);

8) duration of the subsidy and (or) other time-limits, attached to it;

9) statistical data permitting an assessment of the trade effects of a subsidy;

101. It is required that, if possible the information, provided in paragraph 100 of this Protocol, shall contain statistical data on production, consumption, import and export of subsidizing goods and sectors:

1) for the last 3 years, on which there are statistical data;

2) for the year which preceding granting of subsidy.



APPENDIX  
to the Protocol on Common Rules for  
Granting Industrial Subsidies

List of measures,  
for which the Provisions of the Protocol on Common Rules for Granting Industrial  
Subsidies shall not be applied

Measure	Transitional period
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I. Republic of Belarus

<p>Measures of investment agreements, concluded in accordance with Decree of the President of the Republic of Belarus of 4 April 2009 No. 175 “On measures for the development of automobiles production” and Decision of the Commission of Customs Union of 27 November 2009 No. 130 “On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation”*</p>	<p>before 31 December 2020 if unless otherwise provided by the Protocol of accession of the Republic of Belarus to the World Trade Organization</p>
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II. Republic of Kazakhstan

<p>1. Subsidizing of interest rates on loans of export oriented production in accordance with Resolution of the Government of the Republic of Kazakhstan of 13 April 2010</p>	<p>Before 1 July 2016 on loans, provided by credit institutions before 1 July 2011</p>
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Measure	Transitional period
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No. 301

«On Approval of Program «Business Road Map 2020»

2. Customs duty and tax exemption of the goods that are recognized to be of Kazakhstan origin according to the criteria of sufficient processing when exported from the customs free warehouse to the customs territory of the Customs Union, pursuant to the Code of the Republic of Kazakhstan of June 30, 2010 on Customs Procedures in the Republic of Kazakhstan; Law of the Republic of Kazakhstan No 99-1 of December 10, 2008 on Taxes and Mandatory Payments to the Budget (Tax Code); Resolution of the Government of the Republic of Kazakhstan No. 1647 of October 22, 2009 on Approval of Rules for Determining the Country of Origin, Preparing and Issuing an Examiner's Statement of Origin of Goods, and Registering, Certifying and Issuing a Certificate of Origin; Treaty between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation of June 18, 2010 on

before 1 January 2017

Measure	Transitional period
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Free Warehouses and Customs Free

Warehousing Procedure

3. Customs duty and tax exemption of the goods that are recognized to be of before 1 January 2017

goods that are recognized to be of

Kazakhstan origin according to the criteria

of sufficient processing during the export

from special economic zones into the

customs territory of the Customs Union

pursuant to the Treaty between the

Government of the Republic of Belarus,

the Government of the Republic of

Kazakhstan and the Government of the

Russian Federation of June 18, 2010 on the

Issues of Free (Special) Economic Zones in

the Customs Territory of the Customs

Union and Customs Procedure of a Free

Customs Zone; Law of the Republic of

Kazakhstan on Special Economic Zones in

the Republic of Kazakhstan of July 6,

2007; the Code of the Republic of

Kazakhstan of June 30, 2010 on Customs

Procedures in the Republic of Kazakhstan;

Resolution of the Government of the

Republic of Kazakhstan No.1647 of

October 22, 2009 on Approval of Rules for

Determining the Country of Origin,

Preparing and Issuing an Examiner's

Measure	Transitional period
Statement of Origin of Goods, and Registering, Certifying and Issuing a Certificate of Origin	
4. Measures of investment agreements, concluded in accordance with Order of Ministry of Industry and New Technologies of 11 June 2010 No. 113 “On Certain Issues of Conclusion, Terms and Standard Form of Agreement on Industrial Assembly of Motor Vehicles with Judicial Entities – Residents of the Republic of Kazakhstan” and Decision of the Commission of Customs Union of 27 November 2009 No. 130 “On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation”*	before 31 December 2020, unless otherwise provided by the Protocol of accession of the Republic of Kazakhstan to the World Trade Organization
5. Local content in subsurface contracts, between the Government of the Republic of Kazakhstan and subsurface user, concluded before 1 January 2015, in accordance with Law of the Republic of Kazakhstan of 24 June 2010 No. 291-IV “On subsoil and subsoil use ”	Before 1 January 2023, unless otherwise provided by the Protocol of accession of the Republic of Kazakhstan to the World Trade Organization
6. Local content in the procurement of National Wealth Fund (NWF) “Samruk-	before 1 January 2016, unless otherwise provided by the

Measure	Transitional period
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Kazyna” and organizations fifty or more percent of shares of which directly or indirectly owned by the "Samruk-Kazyna", and also companies, which directly and indirectly owned by Government (state share is 50 % and more) in accordance with Law of the Republic of Kazakhstan of 1 February 2012 No. 550-IV «On National Welfare Fund “Samruk-Kazyna” and Regulation of Government of the Republic of Kazakhstan of 28 May 2009 No. 787 “On Approval of Model Rules of Procurement of Goods, Works and Services, Which Made by National Managing Holding, National Holdings, National Companies and Organizations, fifty and more percent of shares of which directly or indirectly owned by National Managing Holding, National Holdings, National Company.

Protocol of accession of the Republic of Kazakhstan to the World Trade Organization

### III. Russian Federation

1. Measures on investment agreements concluded before February 28, 2011, which include provisions established by Decree of the President of the Russian Federation No. 135 of February 5, 1998 “On Additional Measures of Investment Attraction for

Transitional period corresponds to the terms of agreements, which established during their signing and could be prolonged on terms, provided in the Protocol of 16 December 2011 of accession of

Measure	Transitional period
<p>National Automotive Industry Development”, Resolution of the Russian Federation Government No. 166 of March 29, 2005 “On Making Amendments in the Customs Tariff of the Russian Federation in Relation to Auto Components, Imported for Industrial Assembly” and Decision of the Commission of Customs Union of 27 November 2009 No. 130 “On Unified customs and tariff regulation of Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation”*</p>	<p>the Russian Federation to the Marrakesh Agreement on Establishment of the World Trade Organization of 15 April 1994, but not exceeds two calendar years</p>
<p>2. Measures applied in accordance with Federal Law No. 16-FZ of January 10, 2006 “On Special Economic Zone in the Kaliningrad Region and on Making Amendments in Certain Legal Acts of the Russian Federation”</p>	<p>Before 1 April 2016</p>

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\*Applied based on approved by the Supreme Council conditions for application of term “industrial assembly of motor vehicles” on the territories of member States.

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ANNEX 29  
to the Treaty on the  
Eurasian Economic Union

P R O T O C O L  
on Measures of State Support to Agriculture

1. This Protocol shall be developed in accordance with the Article 97-98 of the Eurasian Economic Union Treaty and shall be used in respect to products specified in the section II of this Protocol (furthermore – agricultural products).

2. The terms used herein, shall have the following meanings:

«administrative-territorial units» – administrative-territorial units of the Republic of Belarus and the Republic of Kazakhstan (including Minsk, Astana and Almaty) and the regions and municipal entities of the Russian Federation;

«state support to agriculture» - financial assistance provided by the government or other state body of the member State or local authorities in favour of the producers of the agricultural products either directly or through their authorized agents;

«subsidizing body» - one or more state bodies or local authorities of the member States, which take a decision on state support to agriculture.

Subsidizing body in accordance with the legislation of the member States shall request or make an order to the authorized agent (any other organization) to fulfill one or more of its functions on the state support to agriculture. Such activities of authorized agent will be considered as activities of the subsidizing body.

Activities of the president of the member State relating to the state support to agriculture shall be considered as activities of the subsidizing authority.

I. Measures of State Support to Agriculture

3. Measures of State support to agriculture shall be classified as follows:

1) measures that do not distort agricultural trade between the member States;

2) measures that distort agricultural trade between the member States to a larger extent;

3) measures that distort agricultural trade between the member States.

4. Measures that do not distort agricultural trade shall be those measures, which are specified in the section III of this Protocol. Measures that do not distort trade could be applied by the member States without limitations.

5. Measures that distort agricultural trade between the member States to a larger extent shall be the following:

state support measures contingent, whether solely or as one of the several other conditions, upon the export of agricultural product from the territory of the member State, which applies such measure, to the territory of any other member State;

state support measures contingent, whether solely or as one of the several other conditions, upon the use of agricultural products originating solely from the territory of the member State, which applies such measure in the production of agricultural products regardless of whether specific products, their volume, value, share of the volume or value of production, or the use of domestic products, level of localization in the production of used local goods are determined or not.

An illustrative list of state support measures that distort trade to a larger extent is provided in the section IV of this Protocol.

6. Member States shall not apply measures that distort trade to a larger extent.

7. Measures that distort agricultural trade shall be those measures, which cannot be classified as measures that do not distort agricultural trade or measures that distort agricultural trade to a larger extent referred to in paragraphs 2 and 3 of this Protocol.

8. Amount of measures that distort agricultural trade shall not exceed 10% of the gross value of production of agricultural products.

Methodology for calculations of state support volumes shall be developed by the member States based on international experience and shall be approved by Council of the Commission. member States provide one another and the Commission with the



information on state support measures in accordance with this methodology from the date of its approval in a manner prescribed by the Commission.

Commitment on state support measures that distort agricultural trade shall be established in accordance with this methodology and approved by the Supreme Council.

Application of provisions of this paragraph shall be implemented in accordance with transition provisions provided for in Article 106 of the EAEU Treaty.

9. Upon the accession of the member State to the World Trade Organization, commitment on state support measures that distort agricultural trade undertaken as a condition for the accession to the World Trade Organization, shall become its commitment within the EAEU.

10. Calculation of the volumes of state support to agriculture shall be made in accordance with V of this Protocol, taking into account methodology for calculation of state support to agriculture specified in the paragraph 8 of this Protocol.

## II. Products Subject to the Common Rules for State Support of Agriculture.

11. Common rules for state support of agriculture shall cover the following products of the Single Commodity Nomenclature of Foreign Economic Activity of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation:

1) HS Group 01 – 24 except for HS group 03 (fish and crustaceans, molluscs and other aquatic invertebrates), HS headings 1604 (prepared or preserved fish ; caviar and caviar substitutes prepared from fish eggs) and 1605 (prepared or preserved crustaceans , molluscs and other aquatic invertebrates);

2) HS Subheading 2905 43 000 0 (mannitol);

3) HS Subheading 2905 44 (D- glucitol ( sorbitol);

4) HS Heading 3301 (essential oils (whether or not containing terpenes), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils);

5) HS Headings 3501 - 3505 (casein, caseinates and other derivatives of casein, casein glues; albumins (including concentrates of two or more whey proteins containing more than 80 wt. % whey protein, calculated on the dry matter) and other derivatives albuminates albumin, gelatin (including rectangular (including square) sheets, surface treated or untreated, or colored) and gelatin derivatives; isinglass; other glues of animal origin (except casein of HS heading 3501); peptones and their derivatives, other proteinaceous materials and derivatives thereof, in another not elsewhere specified or included; hide powder, or offal, whether or not chromed, dextrans and other modified starches (for example, starches, pregelatinized or esterified); glues based on starches, or on dextrans or other modified starches); except HS subheading 3503 00 800 1 (isinglass dry) and 3503 00 800 2 (isinglass liquid);

6) HS Subheading 3809 10 (finishing agents to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included, based on amylaceous substances);

7) HS Subheading 3824 60 (sorbitol other than that of Subheading 2905 44);

8) HS Headings 4101 - 4103 (raw hides and skins of bovine (including buffalo) or equine animals (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool on or split, other than those excluded by Note 1 to this chapter, other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, other than those excluded by Note 1b or 1c in this group);

9) HS Heading 4301 (raw furskins (including heads, tails, paws and other pieces or cuttings, suitable for furriers' use), other than raw hides and skins of HS Headings 4101, 4102 or 4103);

10) HS Headings 5001 00 000 0 - 5003 00 000 0 (silk-worm cocoons suitable for reeling, raw silk (not thrown) silk waste (including cocoons unsuitable for reeling, yarn waste and cocoon garnetted stock);

11) HS Headings 5101 - 5103 (wool, not carded or combed; fine or coarse animal hair, not carded or combed; waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock);

12) HS Headings 5201 00 - 5203 00 000 0 (cotton, not carded or combed; cotton waster (including yarn waste and garnetted stock); cotton, carded or combed);

13) HS Heading 5301 (flax, raw or processed flax, but not spun; flax tow and waste (including yarn waste and garnetted stock);

14) HS Heading 5302 (true hemp (*cannabis sativa* L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock).

### III. Measures that Do Not Distort Agricultural Trade between the Member States.

12. Measures of state support to agricultural producer of agricultural products (furthermore - producers) that do not distort trade of the member States shall conform to the following basic criteria:

1) the support shall be provided through the budget (including government revenue foregone), including through the government programs, not involving transfers from consumers. The revenue foregone means sums of due mandatory payments, from which a member State refused finally or temporarily refusal. 2) the support shall not have the effect of providing price support to producers.

13. In addition to the criteria listed in paragraph 12 of this Protocol, measures that do not distort trade, shall conform specific criteria and conditions, specified in paragraphs 14-25 of this Protocol.

14. Government programs on general services, which involve expenditures (or revenue foregone) in relation to services or benefits provided to agriculture or the rural community, with the exception of direct payments to those, who produce or process agricultural products.

15. Government programs on general services may include the following areas:

- 1) research, including general research, research in connection with environmental programs, and research programs relating to particular products;
- 2) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;
- 3) training services, including both general and specialist training facilities;
- 4) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;
- 5) inspection services, including general inspections services and the inspection of particular products for health, safety, grading or standardization purposes;
- 6) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers;
- 7) infrastructural services, including electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage systems, and infrastructural works associated with environmental programs. In all cases, the expenditure shall be directed to the provision or construction of capital works only, and shall exclude subsidies to inputs or operating costs, or preferential user charges.

16. Formation of public stockholding for food security purposes shall be made through expenditures (or revenue foregone) provided in relation to the accumulation and holding of stocks of products, which form an integral part of a food security program identified in national legislation, and shall correspond to the following requirements and criteria:

- 1) the volume and accumulation of public stockholdings for food security purposes shall correspond to predetermined targets related solely to food security;
- 2) the process of stock accumulation and disposal shall be financial transparent;
- 3) food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

17. Domestic food aid is provided to sections of the population in need due to budgetary funds.

Domestic food aid shall correspond to the following requirements and criteria:

eligibility to receive domestic food aid shall be established by national legislation of the member State;

domestic food aid shall be provided in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices;

food purchases by the government for rendering domestic food aid shall be made at current market prices and the financing and administration of the aid shall be transparent.

18. State support measures in the form of direct payments to producers (or revenue foregone, including payments in kind) shall meet the basic criteria set out in paragraph 12 of this Protocol and other criteria applying to individual types of direct payment as set out in paragraphs 18-25 of this Protocol. Direct payments, other than those specified in paragraphs 18-25, shall conform to criteria 2 and 3 in paragraph 18, in addition to the general criteria set out in paragraph 12 of this Protocol.

19. "Decoupled" income support shall correspond to the following requirements and criteria:

1) eligibility for such payments shall be determined by national legislation of the member State depending on income, status as a producer, factor use or production level in a defined and fixed base period;

2) the amount of such payments shall not be related to the type or volume of production (including livestock units) undertaken by the producers, to domestic or international prices applying to production undertaken, or to the factors of production;

3) no production shall be required in order to receive such payments.

20. Government fanatical participation in income insurance and income safety-net programs shall correspond to the following requirements:

1) eligibility for such payments shall be determined by an income loss (only income derived from agriculture shall be taken into account), which exceeds 30% of average gross income or the equivalent in net income terms (excluding any payments, from the same or

similar programs) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry. Any producer meeting this condition shall be eligible to receive the payments;

2) the amount of compensation shall not exceed 70% of the producer's income loss in the year the producer becomes eligible to receive this assistance;

3) the amount of such payments shall not be related to the type or volume of production (including livestock units) undertaken by the producer; or the domestic or international prices applying to such production; or to the factors of production;

4) where a producer receives payments during one calendar year under this paragraph and under paragraph 20 of this Protocol, the total of such payments shall be less than 100% of the producer's total loss.

21. Payments made either directly or by way of government financial participation (authorized organizations by the government) in crop and livestock insurance programs shall correspond to the following requirements:

1) eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or like disaster (including technogenic events, disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the member State, draughts, floods, wildfire, grasshopper plague and other dangerous hydrometeorological events);

2) the amount of such payments shall be determined by a production loss, which exceeds 30% of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;

3) payments shall be made only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster;

4) payments shall not exceed the total cost of such losses resulting from natural disaster and shall not require or specify the type or quantity of future production;

5) payments shall not exceed the level required to prevent or alleviate further loss as defined in criterion 3 of this paragraph;

6) where a producer receives during one calendar year under this paragraph and paragraph 19 of this Protocol, the total amount of compensation shall not exceed 100% of the producer's total loss.

22. Structural adjustment assistance provided through producer retirement programs:

1) eligibility for such payments shall be determined by reference to clearly defined criteria in programs designed to facilitate the retirement of persons engaged in marketable agricultural production, or their movement to non-agricultural activities;

2) payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural production.

23. Structural adjustment assistance provided through resource retirement programs:

1) eligibility for such payments shall be determined by reference to clearly defined criteria in programs designed to remove land or other resources, including livestock, from marketable agricultural production;

2) payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal;

3) payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products;

4) payments shall not be related to either the type or quantity of production or to the domestic or international prices, applying to production undertaken using the land or other resources remaining in production.

24. Structural adjustment assistance provided through investment aids:

1) eligibility for such payments shall be determined by reference to clearly-defined criteria in government programs designed to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages. Eligibility for such programs may also be based on a clearly-defined government program for the reprivatization of agricultural land;

2) the amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the

producer in any year after the base period other than as provided for under criterion 5 of this paragraph;

3) The amount of such payments shall not be related to, or based on, domestic or international prices on particular products;

4) the payments shall be given only for the period of time necessary for the realization of the investment in respect of which they are provided;

5) the payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product;

6) the payments shall be limited to the amount required to compensate for the structural disadvantage.

#### 25. Payments under environmental programs:

1) eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation program and be dependent on the fulfilment of specific conditions under the government program, including conditions related to production methods or inputs;

2) the amount of payment shall be limited to the extra costs or loss of income involved in complying with the government program.

#### 26. Payments under regional assistance program:

1) eligibility for such payments shall be limited to producers in disadvantaged regions. Disadvantaged region is administrative and (or) economic territory defined by national legislation of the member State;

2) the amount of such payments shall not be determined by, or dependent on, the types or volume of production (including livestock units) other than to reduce that production;

3) the amount of such payments shall not defined by, or dependent on, domestic or international prices on particular products;

4) payments shall be available only to producers in eligible regions, but generally available to all producers within such regions;

5) where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned;



6) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

#### IV. Measures that Distort Agricultural Trade between the Member States to a Larger Extent.

27. Measures that distort agricultural trade to a larger extent shall be the following:

1) the provision by government of direct payments (including payments in kind) to a particular producer, to a cooperative or association of agricultural producers, contingent on export performance;

2) the sale or disposal for export to the territory of the other member State of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market of the member State;

3) payments on the export of an agricultural product to the territory of the other member State that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived;

4) the provision of state support to reduce the costs of marketing exports of agricultural products for the export to the territory of the other member State (other than widely available export promotion and advisory services), including handling, upgrading and other processing costs, and the costs of the international transport and freight;

5) establishment of internal transport and freight charges on export shipments of agricultural products to the territory of the other member State, provided on terms on terms more favourable than for domestic shipments;

6) subsidies on agricultural products contingent on their incorporation in exported products for the export to the territory of the other member State.

#### V. Calculation of State Support to Agriculture

28. When calculating a volume of the state support for agriculture are accounted:

1) direct transfer of monetary funds;

2) provision of performance guarantee (for example, guarantees on bank loans);

3) purchase of good, service, stock, enterprises (property complex) or its part, share in the authorized capital of organization (including, purchase of shares), other property, intellectual properties rights etc. at prices exceeding market prices.

4) full or partial exemption for payments of dues to the budget and to the administrative-territorial units (for example, debt relief payments to the budget, etc.).

5) provision of goods and services free of charge or at preferential rates.

6) price support, which includes measures aimed at market price support.

29. Volume of support corresponds to the amount of received funds, which are provided on a non-repayable basis (for example, in the form of grants, compensations and etc.). If non-repayable funds are provided on a more favorable conditions than those currently available on a market (market of banking credits, obligations, and etc.), the volume of support shall be calculated using the gap between the amount, which would otherwise be required to be paid for using these funds in case of receiving them on a market, and actual paid amount.

30. The volume of support for performance guarantee shall be calculated using the gap between the amount, which would otherwise be required to be paid at the rates of risk insurance for non-performing respective obligations on an available market of insurance services, and the amount, which is required to be paid for the provision of guarantee to the subsidized authority.

Budgetary payments on performance guarantee shall be included to the volume of support in the amount, which exceeds the level, calculated in accordance with part 1 of this paragraph.

Member State shall include to the notifications provided for in the section VI of this Protocol information allowing access the level of state support regarding performance guarantee provided by the government.

31. Purchase of good, service, stock, enterprises (property complex) or its part, share in the authorized capital of organization (including, purchase of shares), other property,

intellectual properties rights etc. at prices exceeding market prices. The volume of support shall be calculated using the gap between the amount, paid for the purchase of objects and the amount, which would otherwise be required to be paid for such objects at current market prices.

Such measures as state purchases of stocks or increase of the share in the authorized capital of the enterprises etc., which meet the conditions of normal investment practices, shall not be considered as state support measures.

32. When full or partial exemption for payments of dues to the budget of a member State and to the administrative-territorial units, the volume of support shall correspond to the amount of non-performed financial obligations of the agricultural producer to the budget, including obligations that would arise, if the support is not provided. When deferring performance of obligations, the volume of support shall be determined based on the amount, which is required to be paid in the form of interest for the use of borrowed means equal to the amount of the deferred obligations.

33. When provision of goods and services free of charge or at preferential rates, the volume of support shall be calculated using the gap between market cost and amount actual paid for purchase (provision) of goods or services.

34. The volume of market price support shall be calculated using the gap between the applied administered price and fixed external reference price multiplied by the quantity of production of a particular agricultural product eligible to receive the applied administered price adjusted to take account of differences in quality and extent of goods processing (for example, dairy fat at baseline). Budgetary payments made to maintain this gap (such as buying-in or storage costs) shall not be included.

## VI. Notifications on State Support to Agriculture.

35. Member State shall notify each other and Eurasian Economic Commission (furthermore – Commission) in writing of any planned in the current year program of state support financed at the federal and (or) republican levels, as well as at the level of administrative-territorial units, including information regarding the volume and procedures

of provision of state support. Notification shall contain sufficient information necessary to access its compliance with this Protocol and the size of state support to agriculture by the competent authority of each of the member State and by the Commission. member States shall not transfer to the section of restricted information all information of state support to agriculture. member States shall provide notifications to each other and to the Eurasian Economic Commission annually, not later than 1 of May of the current year.

36. Member States shall send to each other and Commission notifications, specified in paragraph 33 of this Protocol, which shall contain expenditure of the projects of the federal or state budget provided by section, subsection and kinds of functional and departmental expenditure classifications, as well as rules on the procedure and volume of state support to agriculture. Expenditures of budgets of administrative-territorial unites of the member States shall be reflected in the notifications in any other available way.

37. List of the source of such information regarding the volumes and directions of state support to agriculture at the federal and (or) republic levels, as well as at the administrative-territorial level shall be provided by the member State or its authorized state body on request of the other member State or Commission.

38. Authorized bodies of the member State shall send to each other and to the Commission notifications on the provision of the state support to agriculture on the territory of their states for the reporting year before 1 of December of the year following after reporting year.

39. The form of notification on planned in the current year programs of state support to agriculture and on state support to agriculture provided in the reporting year is established by the Commission upon the agreement with the member States.

## VII. Liability of the Member States.

40. In case of violation by the member State of the paragraph 6 and 8 of this Protocol that member State within the reasonable period of time shall discontinue further use of measures that distort agricultural trade to a larger extent, or measures that distort agricultural trade over the allowed amount, and shall pay to other member States

compensation in the amount of support that distort agricultural trade to a larger extent, or of exceeding the allowed amount. Procedures for the payment of compensation shall be established by the Council of Commission. If compensation has not been paid, other member State have a right to impose countermeasures against violating member State.

ANNEX 30  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL

on The Provision of Medical Care to the Member States Employees and to their Family  
Members

1. This Protocol was elaborated in accordance with the section XXVI of the Eurasian Economic Union Treaty and regulates issues of the provision of medical care to the member States employees and their family members.

2. The meanings of the terms used in this Protocol:

"the state of permanent residence" - the state, of which a patient holds a citizenship;

"medical organization (health-care institution)" - juridical person regardless of its legal and organizational form, which performs as its basic (authorized) type of activity medical activity on the basis of license, granted in accordance with the order, stipulated by the law of a member State, other juridical person regardless of legal and organizational form, which performs together with its basic (authorized) type of activity medical activity, or natural person, registered as an individual entrepreneur, which performs medical activity in accordance with the law of a member State;

"medical evacuation" - transportation of a patient in order to save his or her life or preserve health (including those patients, in case of which there is no possibility to provide necessary medical help under conditions threatening life in medical organizations (health-care institutions) they are in, and patients, which became victims of emergency situations and natural disasters as well as in the case they suffer from diseases dangerous to others);

"patient" – a member State employee or their family member, to whom the medical care shall be provided or who applied for medical care regardless of whether they have diseases or not and regardless of their health condition;

"emergency medical assistance (in urgent form)" - complex of medical services, which shall be provided in the case of unexpected acute diseases, conditions, exacerbation of chronic diseases without obvious signs of threat to the life of patient;

"emergency medical assistance (in emergency form)" - complex of medical services, which shall be provided in the case of unexpected acute diseases, accidents, injuries, intoxications and other conditions presenting threat to the life of patient.

3. The state of employment shall guarantee the provision of medical assistance to the member States employees and to the members of their families under terms and conditions defined by the law of the state of employment and international agreements.

4. Member State shall grant on their territory to the member States employees and their family members the right to access free medical assistance (in urgent and emergency forms) in accordance with the same order and the same conditions applied for its own citizens.

Emergency medical assistance (in the urgent and emergency forms) shall be provided to the member States employees and to the members of their families by medical organizations (health-care institutions) of state and municipal health-care system of the state of employment free of charge regardless whether they have insurance or not.

Reimbursement of expenses of medical organization (health-care institution) for provision of emergency medical assistance (in urgent and emergency forms) to the member States employees and to the members of their families is performed on account of corresponding budgets of the state of employment budget system in accordance with the existing health-care financing system.

5. In case of the prolongation of the patient's treatment in the medical organization (health-care institution) of the state of employment, after the threat to his or her life or to the health of others has been eliminated, the payment of the actual cost of the services provided is made by the patient or with the use of other resources which are not prohibited by the law of the state of employment, according to the tariffs and bargain prices.

6. In case medical evacuation of the patient to the state of permanent residence is necessary, the information as to his or her state of health shall be sent by the medical

organization (health-care institution) to the Embassy and (or) to the Authorized body (organization) of the state of permanent residence.

The possibility of the medical evacuation of a patient as well as the order of the medical evacuation shall be defined in accordance with the law of the member States. Medical evacuation shall be provided by the visiting teams of emergency medical assistance along with the provision of medical assistance during transportation, including medical assistance using medical equipment.

Reimbursement of expenses connected with the medical evacuation of patient is provided on account of the corresponding funds of the budget system of the state of permanent residence in accordance with the existing system of health-care financing and from other sources not prohibited by the legislation of the state of permanent residence.



ANNEX 31  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL  
on Functioning of the Eurasian Economic Union within the Multilateral Trading  
System

The Treaty on Functioning of the Customs Union within the Multilateral Trading System of 19 May 2011 shall be applied to the corresponding relations within the framework of the EAEU.

## Protocol

## on the Social Guarantees, Privileges and Immunities in Eurasian Economic Commission

## I. General Provisions

1. The terms used in this Provision have the following meaning:

"the state of residence" - member State on the territory of which the body of the EAEU is located;

"premises of the EAEU bodies" - buildings or parts of buildings used for the official purposes as well as for accommodation of the members of the Collegium of the Commission, judges of EAEU Court, officers and employees;

"representatives of the member States" - heads and members of delegations sent by the member States to the meetings of the EAEU bodies and to other events taking place within the borders of the EAEU;

"Social guarantee (social insurance)" – compulsory insurance against for temporary disability and maternity, compulsory insurance for accidents at work and occupational diseases, compulsory health insurance;

"members of family of the Collegium of the Commission, judges of the EAEU Court, officers of the EAEU bodies " – spouse (husband/wife), minors and dependents of the members of the Collegium of the Commission, judges of the EAEU Court, officers of the EAEU bodies, permanently living with them;

"members of family of the employees" – spouse (husband/wife) and minors permanently living with the employees.

2. Members of the Collegium of the Commission, judges of the EAEU Court, officers and employees shall be considered to be international civil servants. When

executing their authorities (fulfillment of their official duties) they shall neither ask nor receive any instructions from the state authorities or officials of the member State as well as from the authorities of the countries which are not the Members of the EAEU. They shall abstain from all actions incompatible with their status of international civil servants.

3. Each member State shall respect international nature of the authorities of the Collegium of the Commission members, judges of the EAEU Court, officers and employees and do not influence them in the process of fulfillment of their official duties.

## II. Privileges and Immunities of the EAEU

4. The property and assets of the EAEU bodies shall have immunity from all forms of administrative or judicial intervention except the cases when the EAEU shall renounce its immunity on its own.

5. Premises of the EAEU bodies as well as their archives and documents (including correspondence) regardless of the place of storage shall not be subjected to search, requisition, confiscation or other form of intervention impeding the normal functioning of these bodies.

6. Representatives of the respective state authorities of the state of residence shall not enter the premises of the EAEU bodies unless with the permission of the Collegium of the Commission President, President of the EAEU Court or persons who act on their behalf, on the conditions approved by them, except cases of fire and other conditions requiring urgent protective actions.

7. Execution of any action in accordance with decision of the respective state authorities of the state of residence shall take place in the premises of the EAEU bodies only with the permission of the Collegium of the Commission President, President of the EAEU Court or persons acting on their behalf.

8. Premises of the EAEU bodies shall not be used as sanctuary to any person, prosecuted in accordance to the law of any member State or persons to be extradited to a member State or to any other state which is not the Member of the EAEU.

9. Immunity of the premises of the EAEU bodies shall not mean that they can be used for goals, which are incompatible with the functions or tasks of the EAEU or which compromise safety and are detrimental to the interests of legal or natural persons of the member States.

10. State of residence shall take all necessary measures in order to protect premises of the EAEU from all kinds of intervention and damages.

11. EAEU Bodies shall be exempt from taxes, fees, duties and other payments collected by the state of residence, except the payments which constitute payment for the certain types of services and payments (deductions and fees) paid in accordance to the paragraphs 44 and 45 of this Provision.

12. Objects and other property, intended for the official use by the EAEU bodies on the territory of the member States are exempt from customs duties, taxes and customs fees.

13. As to the official means of communication the EAEU bodies shall have the same advantageous conditions, which the state of residence grants to the diplomatic missions.

14. The EAEU bodies shall have right to place flag, emblem or other type of the EAEU symbols on the premises they use and vehicles belonging to them.

15. The EAEU bodies, respecting legislation of the member States, shall have the right to publish and spread printed production in accordance with their aims and functions, publishing of which is stipulated in the acts included in the EAEU legislation.

16. The state of residence shall render assistance to the EAEU bodies in acquisition or obtaining of premises which are necessary to them in order to perform their functions.

17. The EAEU shall cooperate with the respective state authorities of the member States in order to provide proper administration of justice and fulfillment of the requirements of law enforcement bodies as well as to prevent any abuse in connection with the privileges and immunities stipulated in this Provision.

III. Privileges and immunities of members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees

18. Members of the Collegium of the Commission and judges of the EAEU Court, if they are not nationals of the receiving State, shall enjoy the privileges and immunities to

the extent provided by the Vienna Convention on Diplomatic Relations of April 18, 1961 for a diplomatic agent.

Such immunity shall not apply to cases:

real action relating to private immovable property situated in the territory of the receiving State;

action relating to succession in which the member of the Board of the Commission, Judge of the EAEU Court or a family member acts as executor, trustee of, heir or legatee as a private individual and not on behalf of the body of the EAEU;

action relating to any professional activities in the State outside of official functions.

Members of the Commission and the Collegium of Judges of the EAEU Court, who are nationals of the receiving State, shall be subject to the provisions of subparagraph 1 of paragraph 19 of this Regulation.

Family members of the Commission and members of the Board of Judges of the EAEU Court residing with them, if these family members are not nationals of the receiving State, shall be subject to the provisions of paragraph 3 - 5 paragraph 19 of this Regulation.

Family members of the Commission and members of the Collegium of Judges of the EAEU Court, if they are nationals of the receiving State and (or) reside in its territory shall not be covered by the immunity from civil jurisdiction of the receiving State in respect of claims for damages in connection with a traffic accident caused by a vehicle belonging to such family member or driven by them.

19. Officials:

1) shall not be subject to criminal, civil and administrative liability for words spoken or written and all acts performed by them in their official capacity;

2) shall be exempt from taxation of wages and other remuneration paid by bodies of the EAEU;

3) shall be exempt from national service obligations;

4) shall be exempt from restrictions on entry into the receiving State and leaving it, from registration as foreign residents and receipt of a temporary residence permit;

5) enjoy the same repatriation facilities as diplomatic envoys during international crises.

20. Officials if they are nationals of and (or) reside in its territory shall not be covered by the provisions of subparagraphs 2 - 5 of paragraph 19 of this Regulation.

21. Family members of officials residing with them, if these family members are not nationals of the receiving State and (or) not permanently residing in its territory, shall be subject to the provisions of paragraph 3 - 5 paragraph 19 of this Regulation.

22. Accreditation issues for members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees are regulated by international agreements on the conditions of stay for the EAEU bodies in the territory of the receiving State.

23. Members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall not engage in business and any other activity in interests of their personal benefit or the benefit of other individuals, except for scientific, creative and educational activities.

Income derived from scientific, artistic or teaching activities shall be taxable in accordance with international agreements and legislation of the receiving State.

24. Members of the Collegium of the Commission, the judges of the EAEU Court, officials and their family members shall comply with the legislation of the receiving State in respect of insurance against damage that may be caused to third parties in connection with the use of any vehicle.

25. Employees shall not be subject to the jurisdiction of the judicial or administrative authorities of the State in respect of acts committed with the direct performance of their duties, except in cases of presentation of:

1) claims for damages in connection with a traffic accident caused by a vehicle owned by the employee or driven by them;

2) claims for loss of life or personal injury caused by the actions of employees.

26. Employees shall be exempt from restrictions on entry into the receiving State and leaving it, from registration as foreign residents and receipt of a temporary residence permit.

27. The provisions of paragraphs 25 and 26 of this Regulation shall not apply to the relationship between employees and the public authorities and administration bodies of the member State which they are nationals of.

28. Privileges and immunities enjoyed by members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees, shall be provided to them not for personal gain but for the efficient, independent exercise of their powers (the performance of official (official) duties) in interests of the EAEU.

29. Members of the Collegium of the Commission, the judges of the EAEU Court, officials, employees and members of their families shall enjoy the privileges and immunities provided for in this Regulation, from the moment they entered the territory of the receiving State on proceeding to destination or if they are already on this territory, from the time when members of the Collegium of the Commission, the judges of the EAEU Court, officials, employees began to implement their authorities (official (service) duties).

30. Upon termination of authorities (the performance of official (official) duties) of the member of the Collegium of the Commission, the judge of the EAEU Court, official or employee their privileges and immunities, and privileges and immunities of members of their families living with them shall normally cease at the moment of leaving the state of residence by this individual or after a reasonable period for leaving the receiving State, depending on which of these moments comes first. Privileges and immunities of members of the family are terminated when they cease to be members of family of the member of the Collegium of the Commission, judge of the EAEU Court, official or employee. Moreover, if such individuals intend to leave the receiving State within a reasonable time, their privileges and immunities shall subsist until their departure.

31. In case of death of a member of the Collegium of the Commission, the judge of the EAEU Court, an official or employee the members of their families living with them shall continue to enjoy the privileges and immunities provided to them until time they leave the State or before the expiration of a reasonable period for leaving the receiving State depending on which of these moments comes first.

32. Immunity of the member of the Collegium of the Commission, judge of the EAEU Court or the official from administrative, civil and criminal jurisdiction in respect of words spoken or written in the framework of their functions, and all acts performed as a member of the Collegium of the Commission, the judge of the EAEU Court or an official shall be reserved for them and after the termination of their powers. This paragraph shall operate without prejudice to cases of liability of members of the Collegium of the Commission, or Judges of the EAEU Court or officials provided for in the Agreement on the Eurasian Economic EAEU or international agreements within the EAEU.

33. All persons enjoying such privileges and immunities in accordance with this Regulation, shall be obliged to respect the laws the receiving State without prejudice to their privileges and immunities. They shall also obliged to not to interfere in the internal affairs of that State.

34. Members of the Collegium of the Commission, Judge of the EAEU Court, an official, an employee shall be deprived of immunity, if immunity would impede the course of justice and removal of the immunity shall not bear prejudice to the purposes for which it was granted.

35. Removal the immunity is carried out:

1) against a member of the Collegium of the Commission and judge of the EAEU Court - by the Supreme Council;

2) against officials and employees of the Commission - by the Council of the Commission;

3) in respect of officials and employees of the EAEU Court - by Chairman of the EAEU Court.

36. Waiver of immunity shall be in writing and must be express.

#### IV. Privileges and immunities of representatives of the member States

37. Representatives of the member States in the exercise of their official functions and during their journey to the place of activities organized by bodies of the EAEU in the territories of the member States shall enjoy the following privileges and immunities:



1) immunity from personal arrest or detention, as well as the jurisdiction of the judicial and administrative authorities in respect of all acts that may be committed by them in that capacity;

2) security of residence;

3) exemption of accompanied baggage and hand luggage from customs inspection, unless there are serious grounds to believe that they contain items or other property not intended for official or personal use, or items and other property, the import or export of which is prohibited or restricted by the legislation of the member State on whose territory the event is carried out;

4) exemption from restrictions on entry into the receiving State and leaving it, from foreign national registration and obtaining of a temporary residence permit.

38. The provisions of paragraph 37 of this Regulation shall not apply to relations between a representative of the member State and the authorities of the member State of national of which he is or was.

39. Privileges and immunities enjoyed by the representatives of the member States, shall be provided to them not for personal gain but for the efficient, independent performance of their official duties for their member States.

40. The premises occupied by representatives of the member States, furnishings and other property, as well as vehicles used for their business need, shall be immune from search, requisition, arrest or execution activities.

41. The archives and documents of the member States shall be inviolable at any time and regardless of the data carriers and their location.

42. In case it is not against the law and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall provide all representatives of the member States with freedom of movement and travel in its territory to the extent which is necessary to fulfill their official functions.

## V. Labor relations and social protection in the bodies of the EAEU

43. Labor relations for members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall be governed by the legislation of the receiving State, considering the norms of this Regulation.

44. Pension provision for members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall be subject to the legislation of the member State which they are nationals of.

Mandatory contributions to pension provision for members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees of bodies of the EAEU shall be made at the expense of the EAEU budget to the pension funds of the member States, citizens of which the above individuals are, in the manner and amount established by the legislation of the member State.

Expenditure on payment of pensions to members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall be at the expense of the member State which they are nationals of.

45. Social insurance (except for pension insurance) and provision of social security benefits for members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall be carried out in accordance with the legislation of the receiving State on the same conditions and in the same manner as it carried out to the citizens of the receiving State.

Payment of premiums for social insurance (except for pension insurance) from payments to members of the Collegium of the Commission, the judges of the EAEU Court, officials and employees shall be financed from the EAEU budget in accordance with the laws of the receiving State.

Expenses on payment of social security benefits shall be at the expense of the receiving State without mutual settlements with other member States.

46. When granting a pension or social security benefits the period of work as a member of the Collegium of the Commission, the judge of the EAEU Court, official or employee shall be included in the insurance or employment history in accordance with the legislation of the member State which they are nationals of.

Period of work as a member of the Collegium of the Commission, the judge of the EAEU Court, official or employee shall be included in the insurance or employment history when granting a pension in accordance with the legislation of the member State which they are nationals of, and the appointment of social security benefits (provision) - in accordance with the legislation of the receiving State.

47. Earnings received by members of the Collegium of the Commission, judges of the EAEU Court, officials and employees during the performance of their duties, shall be considered in determining the amount of the pension in accordance with the legislation of the member State which they are nationals of, and in determining the social security benefits - in accordance with the legislation of the receiving State.

48. During the execution of their powers the members of the Commission and the Collegium of the EAEU, judges of the Court shall enjoy the following social guarantees:

- 1) paid annual leave of 45 calendar days;
- 2) medical, health resort and transport services, carried out by the EAEU budget;
- 3) provision from the budget of the EAEU, of official premises members of the Collegium of the Commission and to judges of the EAEU Court who do not have living space in the city, in which the corresponding body of the EAEU is located;

- 4) inclusion of period of execution of authorities of the Commission Board member into public (state, civil) service period when granting social guarantees, provided for by legislation of a state-member, a citizen of which he / she is, for public (federal, state civil ) workers, as well as into duration of execution of minister's authorities (federal minister) when determining of amount (right) of pension (social) coverage (monthly pension supplement), provided for by legislation of state-member a citizen of which a Commission Board member is, for minister (federal minister);

- 5) Inclusion of period of execution of authorities of EAEU Court judge into a judge period in a state-member, a citizen of which the EAEU Court judge is.

49. Issues related to granting of social guarantees (including medical, sanatoria-resort and transportation) to Commission Board members shall be solved by competent body of the state where he\she stays.

50. Commission Board members who are citizens of Russian Federation, stepped down from office (except for cases of early termination of the powers, provided for by Regulation on Eurasian Economic Commission (attachment # 1 to Eurasian Economic EAEU Agreement), has a right to establishing of monthly supplement to non-contributory pension due to old age (invalidity). Monthly supplement to a pension is granted in amount, order and on conditions provided for by Russian Federation for federal minister. Resolution to establish monthly supplement to a pension is made by head of federal body of executive authority on social protection of population. The monthly supplement is established on account of federal budget funds.

51. Medical and sanatoria-resort coverage is provided for officials and employees on account of the EAEU budget in period of fulfillment of his/her duties (work duties); to directors of the Commission departments - transportation service is provided on account of the EAEU budget as well.

52. For officials and employees in period of fulfillment of their duties (work duties), who do not have dwelling place within a city where relevant body of the EAEU is located – a corporate housing can be provided on account of the EAEU budget.

53. Officials and Commission employees who are Russian Federation citizens, filled in, prior to working in the Commission, positions of federal state (state civil) service, released from positions, filled in the Commission (except for cases of release connected with wrongful acts) and who have public civil service period not less than 15 years, have a right to a length-of-service pension, granted in the order, set forth by legislation of Russian Federation (RF) for federal state civil employees, if right before leaving the Commission they filled in position not less than for 12 months. Resolution on granting of length-of-service pension is reached by head of federal body of executive authority on social protection of population upon decision made by the Commission Board.

Amount of length-of-service pension is calculated out of average monthly salary of official or employee, marginal amount of which is determined in respect to official salaries (monetary compensation), set by positions equivalent to the ones in the state civil service based on List of Compliance of officials' and the Commission employees positions with

federal state civil positions in Russian Federation Government Executive Office, approved by the RF Government.

Length-of-service pension pursuant to RF legislation is granted on account of the federal budget funds.

54. Work period of officials and the Commission employees is included into public (state, civil) service period of a state-member, a citizen of which he / she is for establishing of social guarantees in the period of public (state civil) service and for granting of length-of-service pension for a public service officials (federal state civil officials).

55. Order of medical and sanatoria-resort service for the Commission Board members, the EAEU Court judges, officials and employees is determined by the Supreme Council.

ANNEX 33  
to the Treaty on the  
Eurasian Economic Union

PROTOCOL

On Termination of International Treaties Concluded within the Framework of Formation of the Customs Union and Single Economic Space due to Entering into Force of the Treaty on the Eurasian Economic Union

Due to entry of the Treaty on Eurasian Economic Union into force (hereinafter referred to as the “Treaty”), the following international treaties, concluded as part of formation of Customs Union and Common Economic Space, cease to be effective.

I. International Treaties that shall be terminated as of the date of entry into force of the  
EAEU Treaty

1. Treaty on Creation of the Common Customs Territory and Formation of the Customs Union of 6 October 2007.

2. Protocol on the Order of Entering into Force of the International Agreements Forming the Legal Base of the Customs Union, Withdrawal from and Accession to Them of 6 October 2007.

3. Agreement on Customs Statistics of External and Mutual Trade in Goods of the Customs Union of 25 January 2008.

4. Agreement on Common Customs and Tariff Regulation of 25 January 2008.

5. Agreement on Single Non-Tariff Regulation Measures with regard to the Third Countries of 25 January 2008.

6. Agreement on Application of Special Safeguard, Anti-dumping and Countervailing Measures with regard to the Third Countries of 25 January 2008.

7. Agreement on Principles of Levying of Indirect Taxes when Exporting and Importing Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008.

8. Protocol on Granting Tariff Exemptions of 12 December 2008.

9. Protocol on Unified Application of Rules for Determination of Customs Valuation of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.

10. Protocol on Exchange of Information Required for Customs Valuation and Control Over Customs Value of Goods between Customs Bodies of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 12 December 2008.

11. Protocol on Conditions and Procedure for Use in Exceptional Cases of Import Customs Duty Rates Other Than the Rates of the Common External Tariff of 12 December 2008.

12. Agreement on Types of Customs Procedures and Customs Regimes of 12 December 2008.

13. Agreement on Order of Declaration of Customs Value of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.

14. Agreement on Order of Declaration of Goods of 12 December 2008.

15. Agreement on Order of Calculation and Payment of Customs Fees in Member-States of the Customs Union of 12 December 2008.

16. Agreement on Order of Control over Accuracy of Customs Valuation of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.

17. Agreement on Order of Customs Clearance and Customs Control in Member-States of the Customs Union of 12 December 2008.

18. Agreement on Secretariat of the Customs Union Commission of 12 December 2008.

19. Agreement on Conditions and Procedures for Application of Tariff Rate Quotas of 12 December 2008.

20. Agreement on the Introduction and Application of Measures Affecting Foreign Trade in Goods on the Common Customs Territory with Regard to the Third Countries of 9 June 2009.

21. Agreement on the Rules of Licensing in the Area of Foreign Trade in Goods of 9 June 2009.

22. Protocol on Order of Levying of Indirect Taxes and Mechanism of Control Over Their Payment on Exportation and Importation of Goods in the Customs Union of 11 December 2009.

23. Protocol on Order of Levying of Indirect Taxes When Performing Works and Rendering Services in the Customs Union of 11 December 2009.

24. Protocol on Order of Transferring of Foreign Trade Statistics and Mutual Trade Statistics Data of 11 December 2009.

25. Protocol on the Status of the Center for Customs Statistics of the Commission of the Customs Union of 11 December 2009.

26. Agreement on Mutual Recognition of Accreditation of Certification (Conformity Assessment) Bodies and Testing Laboratories (centers) Performing Conformity Assessment of 11 December 2009.

27. Agreement on the Movement of Goods Subject to Mandatory Conformity Assessment on the Customs Territory of the Customs Union of 11 December 2009.

28. Agreement of the Customs Union on Veterinary and Sanitary Measures of 11 December 2009.

29. Agreement of the Customs Union on Plant Quarantine of 11 December 2009.

30. Agreement of the Customs Union on Sanitary Measures of 11 December 2009.

31. Protocol of 11 December 2009 on Amendments to the Agreement on Principles of Levying of Indirect Taxes when Exporting and Importing Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008 .

32. Agreement on Establishment and Application of Procedure of Entering and Distribution of Import Customs Duties in the Customs Union (other duties, taxes and fees of equivalent effect) of 20 May 2010.



33. Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Plant Quarantine of 11 December 2009.

34. Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Veterinary and Sanitary measures of 11 December 2009.

35. Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Sanitary Measures of 11 December 2009.

36. Protocol on Certain Temporary Exemptions from the Regime of Functioning of the Common Customs Territory of the Customs Union of 5 July 2010.

37. Agreement on Application of Information Technologies in Exchange of Electronic Documents in Foreign and Mutual Trade within the Uniform Customs Territory of the Customs Union of 21 September 2010.

38. Agreement on Establishment, Operation and Development of Integrated Information System of Foreign and Mutual Trade of the Customs Union of 21 September 2010.

39. Agreement on Common Principles and Rules of Technical Regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 18 November 2010.

40. Protocol on the Order on Submission to Authority Conducting the Investigation the Information including Confidential Information for the Purposes of Safeguards, Anti-dumping and Countervailing Investigations of 19 November 2010.

41. Agreement "On Application of Safeguard, Anti-dumping and Countervailing Measures to the Third Countries in the Transitional Period" of 19 November 2010.

42. Agreement on Legal Status of Natural Persons and Members of Their Families of 19 November 2010.

43. Agreement on Rules of Access to Services of Natural Monopolies in the Sphere of Electro Energy, including Basics of Pricing and Tariff Policy of 19 November 2010.

44. Agreement on State (Municipal) Procurement of 9 December 2010.

45. Agreement on Common Rules of State Support of Agricultural Sector of 9 December 2010.

46. Agreement on Common Rules for Granting Industrial Subsidies of 9 December 2010.

47. Agreement on Common Principles and Rules of Competition of 9 December 2010.

48. Agreement on Common Principles and Rules of Regulation of Activities of Natural Monopolies of 9 December 2010.

49. Agreement on Common Principles of Regulation in the Sphere of Protection of Intellectual Property Rights of 9 December 2010.

50. Agreement on Organization, Management, Functioning and Development of Common Markets of Oil and Oil Products of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 9 December 2010.

51. Agreement on Rules of Access to the Services of Natural Monopolies in the Sphere of Gas Transportation, Including Basics of Price and Tariff Formation of 9 December 2010.

52. Agreement on Regulation of Access to the Services of Railway Transport, Including Basics of Tariff Policy of 9 December 2010.

53. Agreement on Coordinated Macroeconomic Policy of 9 December 2010.

54. Agreement on Coordinated Principles of Monetary Policy of 9 December 2010.

55. Agreement on Establishing Conditions on Financial Markets for Free Movement of Capital of 9 December 2010.

56. Agreement on Trade in Services and Investments of 9 December 2010.

57. Agreement on Transport (automobile) Monitoring on the External Border of the Customs Union of 22 June 2011.

58. Protocol of 18 October 2011 on Amendments and Addenda to the Agreement on Application of Safeguard, Anti-dumping and Countervailing Measures to the Third Countries between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 25 January 2008.

59. Protocol on Procedure for Exchange of Information related to Payment of Import Customs Duties of 19 October 2011.

60. Treaty on Eurasian Economic Commission of 18 November 2011.

61. Treaty on Interaction of Competent Authorities of member States of the Agreement on Coordinated Principles of Monetary Policy of 9 December 2010, implementing currency control of 15 December 2011.

62. Agreement on Informational Interaction in the field of Statistics of 29 May 2013.

63. Protocol on Amendments to the Protocol on Conditions and Procedure for Use in Exceptional Cases of Import Customs Duty Rates Other Than the Rates of the Common External Tariff of 12 December 2008, dated August 24, 2012.

64. Protocol on Amendments to the Agreement on Conditions and Mechanism for Application of Tariff Rate Quotas of 12 December 2008, dated June 21, 2013.

65. Protocol on amendments to the Agreement on Common Customs and Tariff Regulation of 25 January 2008, dated September 25, 2013.

II. International treaties that shall be terminated as of the date of entry into force of relevant decision of the Commission according to the Article 102 of the EAEU Treaty

1. Agreement on Single Rules of Determination of Country of Origin of 25 January 2008.

2. Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008.

3. Agreement on Rules Determining the Origin of Goods from the Developing and Least-Developed Countries of 12 December 2008.

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